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LEGISLATIVE BILL 863

Approved by the Governor April 18, 2022

Introduced by Williams, 36.

A BILL FOR AN ACT relating to insurance; to amend sections 44-361, 44-7,102, 44-2121, 44-2132, 44-2138, 44-4052, 44-5103, 44-5105, 44-5120, 44-5120.01, 44-5132, 44-5137, 44-5139, 44-5141, 44-5143, 44-5144, 44-5149, 44-5153, and 44-9004, Reissue Revised Statutes of Nebraska; to adopt the Travel Insurance Act and the Primary Care Investment Act; to prohibit certain insurance practices relating to a person's status as a living organ donor; to change provisions regarding premium rebates; to provide requirements regarding value-added products and services; to provide, change, and eliminate definitions; to change the requirement for screening coverage for colorectal cancer; to require the filing of annual group capital calculations and liquidity stress tests as prescribed and provide for confidentiality and recognize trade secrets under the Insurance Holding Company System Act as prescribed; to provide powers and duties; to change provisions relating to the Insurers Investment Act; to eliminate travel insurance provisions; to harmonize provisions; to provide operative dates; to repeal the original sections; and to outright repeal section 44-4068, Reissue Revised Statutes of Nebraska.

Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 10 of this act shall be known and may be cited as the Travel Insurance Act.

Sec. 2. (1) The purpose of the Travel Insurance Act is to promote the public welfare by creating a comprehensive legal framework within which travel insurance may be sold in this state.

(2) The requirements of the Travel Insurance Act shall apply to travel insurance that covers any resident of this state or that is sold, solicited, negotiated, or offered in this state and to policies and certificates of travel insurance that are delivered or issued for delivery in this state. The act shall not apply to cancellation fee waivers or travel assistance services except as expressly provided in the act.

(3) All other applicable provisions of the insurance laws of this state shall continue to apply to travel insurance, except that the specific provisions of the Travel Insurance Act shall supersede any general provisions of law that would otherwise be applicable to travel insurance.

Sec. 3. For purposes of the Travel Insurance Act, unless the context otherwise requires:

(1) Aggregator site means a website that provides access to information regarding insurance products from more than one insurer, including product and insurer information, for use in comparison shopping;

(2) Blanket travel insurance means a policy of travel insurance issued to any eligible group providing coverage for specific classes of persons defined in the policy with coverage provided to all members of the eligible group without a separate charge to individual members of the eligible group;

(3) Cancellation fee waiver means a contractual agreement between a supplier of travel services and its customer to waive some or all of the nonrefundable cancellation fee provisions of the supplier's underlying travel contract with or without regard to the reason for the cancellation or form of reimbursement. A cancellation fee waiver is not insurance;

(4) Department means the Department of Insurance;

(5) Director means the Director of Insurance;

(6) Eligible group means two or more persons who are engaged in a common enterprise or have an economic, educational, or social affinity or relationship, including, but not limited to:

(a)(i) Any entity engaged in the business of providing travel services, including, but not limited to, a tour operator, a lodging provider, a vacation property owner, a hotel, a resort, a travel club, a travel agency, a property manager, a cultural exchange program, and a common carrier, or (ii) the operator, owner, or lessor of a means of transportation of passengers, including, but not limited to, any airline, cruise line, railroad, steamship company, or public bus company, so long as, within the particular mode of travel, all members or customers of the group have a common exposure to risk attendant to such travel;

(b) Any college, school, or other institution of learning covering students, teachers, employees, or volunteers;

(c) Any employer covering any group of employees, volunteers, contractors, board of directors, dependents, or guests;

(d) Any sports team or camp, or any sponsor of a sports team or camp, covering participants, members, campers, employees, officials, supervisors, or volunteers;

(e) Any religious, charitable, recreational, educational, or civic organization, or any branch thereof, covering any group of members, participants, or volunteers;

(f) Any financial institution or financial institution vendor, or parent

holding company, trustee, or agent of or designated by one or more financial institutions or financial institution vendors, including account holders, credit card holders, debtors, guarantors, or purchasers;

(g) Any incorporated or unincorporated association, including a labor union, having a common interest, constitution, and bylaws and organized and maintained in good faith for purposes other than obtaining insurance for members or participants of such association covering its members;

(h) Any trust or the trustees of a fund established, created, or maintained for the benefit of covering members, employees, or customers, subject to the approval of the use of such trust by the director and the requirements of the premium tax provisions in section 5 of this act, in one or more associations described in subdivision (6)(g) of this section;

(i) Any entertainment production company covering any group of participants, audience members, contestants, employees, or volunteers;

(j) Any volunteer fire department or ambulance, rescue, first-aid, police, court, civil defense, or other similar volunteer group;

(k) Any preschool, daycare institution for children or adults, or senior citizen club;

(l) Any automobile or truck rental or leasing company covering a group of individuals who may become renters, lessees, or passengers defined by their travel status on the rented or leased vehicles. The common carrier, the operator, owner, or lessor of a means of transportation, or the automobile or truck rental or leasing company is the policyholder under a policy to which this subdivision applies; or

(m) Any other group if the director has determined that the members are engaged in a common enterprise or have an economic, educational, or social affinity or relationship and that issuance of the policy would not be contrary to the public interest;

(7) Fulfillment materials means documentation sent to the purchaser of a travel protection plan confirming the purchase and providing the travel protection plan's coverage and assistance details;

(8) Group travel insurance means travel insurance issued to any eligible group;

(9) Limited lines travel insurance producer means a:

(a) Licensed managing general agent or third-party administrator;

(b) Licensed insurance producer, including a limited lines insurance producer; or

(c) Travel administrator;

(10) Offer and disseminate means providing general information, including a description of the coverage and price, as well as processing the application and collecting premiums;

(11) Primary certificate holder means an individual person who elects and purchases travel insurance under a group travel insurance policy;

(12) Primary policyholder means an individual person who elects and purchases individual travel insurance;

(13) Travel administrator means a person who directly or indirectly underwrites, collects charges, collateral, or premiums from, or adjusts or settles claims on, residents of this state in connection with travel insurance. A person shall not be considered a travel administrator if such person's only actions that would otherwise cause such person to be considered a travel administrator include:

(a) A person working for a travel administrator and such person's activities are subject to the supervision and control of the travel administrator;

(b) An insurance producer selling insurance or engaged in administrative and claims-related activities within the scope of the producer's license;

(c) A registered travel retailer offering and disseminating travel insurance under the license of a limited lines travel insurance producer in accordance with the Travel Insurance Act;

(d) A person adjusting or settling claims in the normal course of that person's practice or employment as an attorney and such person does not collect charges or premiums in connection with insurance coverage; or

(e) A business entity that is affiliated with a licensed insurer while acting as a travel administrator for the direct and assumed insurance business of an affiliated insurer;

(14) Travel assistance services means noninsurance services for which the consumer is not indemnified based on a fortuitous event and if providing the service does not result in transfer or shifting of risk that would constitute the business of insurance. Travel assistance services are not insurance and not related to insurance. Travel assistance services includes, but is not limited to:

(a) Security advisories, destination information, and vaccination and immunization information services;

(b) Travel reservation services;

(c) Entertainment, activity, and event planning;

(d) Translation assistance services;

(e) Emergency messaging services;

(f) International legal and medical referral services;

(g) Medical case monitoring services;

(h) Transportation arrangement and coordination services;

(i) Emergency cash transfer assistance services;

(j) Medical prescription replacement assistance services;

(k) Passport and travel document replacement assistance services;

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(l) Lost luggage assistance services;

(m) Concierge services; and

(n) Any other service that is furnished in connection with planned travel;

(15)(a) Travel insurance means insurance coverage for personal risks incident to planned travel, including: Interruption or cancellation of a trip or event; loss of baggage or personal effects; damages to accommodations or rental vehicles; sickness, accident, disability, or death occurring during travel; emergency evacuation; repatriation of remains; or any other contractual obligations to indemnify or pay a specified amount to the traveler upon determinable contingencies related to travel as approved by the director.

(b) Travel insurance does not include a major medical plan that provides comprehensive medical protection for travelers with trips lasting longer than six months, including those working or residing overseas as an expatriate, or any other product that requires a specific insurance producer license;

(16) Travel protection plan means a plan that provides travel insurance, travel assistance services, cancellation fee waivers, or any combination thereof; and

(17) Travel retailer means a business entity that makes, arranges, or offers planned travel and may offer and disseminate travel insurance as a service to its customers on behalf of and under the direction of a limited lines travel insurance producer.

Sec. 4. (1) No person may act as a limited lines travel insurance producer or travel retailer unless such person holds the appropriate license or registration as required by the Travel Insurance Act.

(2) The department may issue a limited lines travel insurance producer license to an individual or business entity that files with the department an application for a limited lines travel insurance producer license in a form and manner prescribed by the department. A limited lines travel insurance producer may sell, solicit, or negotiate travel insurance through a licensed insurer.

(3) A travel retailer may offer and disseminate travel insurance under a limited lines travel insurance producer only if the following conditions are met:

(a) The limited lines travel insurance producer or travel retailer provides to the purchaser of travel insurance:

(i) A description of the material terms or the actual material terms of the travel insurance policy;

(ii) A description of the process for filing a claim;

(iii) A description of the review or cancellation process for the travel insurance policy; and

(iv) The identity and contact information of the insurer and limited lines travel insurance producer;

(b)(i) The limited lines travel insurance producer, at the time of licensure, establishes and maintains a register on a form prescribed by the department of each travel retailer that offers travel insurance on behalf of such limited lines travel insurance producer. The register shall include the name, address, and contact information of the travel retailer and an officer or person who directs or controls the travel retailer's operation and the travel retailer's federal tax identification number. The limited lines travel insurance producer shall submit such register to the department upon request; and

(ii) The limited lines travel insurance producer certifies that the registered travel retailer complies with 18 U.S.C. 1033. The grounds for suspension or revocation and the penalties applicable to resident insurance producers under the Insurance Producers Licensing Act shall be applicable to limited lines travel insurance producers and travel retailers;

(c) The limited lines travel insurance producer designates one of its employees who is a licensed individual producer as the designated responsible producer responsible for the compliance with travel insurance laws and rules and regulations applicable to such limited lines travel insurance producers and travel retailers;

(d) The designated responsible producer, president, secretary, treasurer, and any other officer or person who directs or controls the limited lines travel insurance producer's insurance operations complies with the fingerprinting requirements applicable to insurance producers in the state where the limited lines travel insurance producer resides;

(e) The limited lines travel insurance producer has paid all applicable licensing fees as set forth in section 44-4064 and any other applicable state law; and

(f) The limited lines travel insurance producer requires each employee and authorized representative of the travel retailer whose duties include offering and disseminating travel insurance to receive a program of instruction or training, which may be subject to review by the director. The training material shall include, at a minimum, instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers.

(4) A limited lines travel insurance producer and travel retailers registered under its license are exempt from the examination requirements in section 44-4052 and the continuing education requirements in sections 44-3901 to 44-3908.

(5) The director may take disciplinary action against a limited lines travel insurance producer pursuant to section 44-4059.

(6) Any travel retailer offering and disseminating travel insurance shall make brochures or other written materials available to a prospective purchaser that:

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(a) Provide the identity and contact information of the insurer and the limited lines travel insurance producer;

(b) Explain that the purchase of travel insurance is not required in order to purchase any other product or service from the travel retailer; and

(c) Explain that an unlicensed travel retailer is permitted to provide general information about the insurance offered by the travel retailer, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the travel insurance offered by the travel retailer or to evaluate the adequacy of the customer's existing insurance coverage.

(7) A travel retailer's employee or authorized representative who is not licensed as an insurance producer shall not:

(a) Evaluate or interpret the technical terms, benefits, or conditions of the offered travel insurance coverage;

(b) Evaluate or provide advice concerning a prospective purchaser's existing insurance coverage; or

(c) Hold such travel retailer employee or authorized representative out as a licensed insurer, licensed producer, or insurance expert.

(8) A travel retailer whose insurance-related activities, and those of its employees and authorized representatives, are limited to offering and disseminating travel insurance on behalf of and under the direction of a limited lines travel insurance producer meeting the conditions stated in this section is authorized to receive related compensation for the services upon registration by the limited lines travel insurance producer.

(9) The limited lines travel insurance producer is responsible for the acts of the travel retailer and shall use reasonable means to ensure that the travel retailer complies with the Travel Insurance Act.

(10) Any person licensed in a major line of authority as an insurance producer is authorized to sell, solicit, and negotiate travel insurance. A property and casualty insurance producer is not required to become appointed by an insurer in order to sell, solicit, or negotiate travel insurance.

Sec. 5. (1) A travel insurer shall pay premium tax, as provided in Chapter 77, article 9, on travel insurance premiums paid by:

(a) An individual primary policyholder who is a resident of this state;

(b) A primary certificate holder who is a resident of this state and elects coverage under a group travel insurance policy; or

(c) A blanket travel insurance policyholder that is a resident in or has its principal place of business or the principal place of business of an affiliate or subsidiary that has purchased blanket travel insurance in this state for eligible blanket group members, subject to any apportionment rules which apply to the insurer across multiple taxing jurisdictions or that permit the insurer to allocate premium on an apportioned basis in a reasonable and equitable manner in those jurisdictions.

(2) A travel insurer shall:

(a) Document the state of residence or principal place of business of the policyholder or certificate holder; and

(b) Report as premium only the amount allocable to travel insurance only and not any amounts received for travel assistance services or cancellation fee waivers.

Sec. 6. Travel protection plans may be offered for one price for the combined features that the travel protection plan offers in this state if:

(1) Such plans clearly disclose to the consumer, at or prior to the time of purchase, that the plans include travel insurance, travel assistance services, and cancellation fee waivers as applicable, and the person provides information and an opportunity, at or prior to the time of purchase, for the consumer to obtain additional information regarding the features and pricing of each; and

(2) The fulfillment materials:

(a) Describe and delineate the travel insurance, travel assistance services, and cancellation fee waivers in the travel protection plans; and

(b) Include the travel insurance disclosures and contact information for persons providing the travel assistance services and cancellation fee waivers, as applicable.

Sec. 7. (1) All persons offering travel insurance to residents of this state are subject to the Unfair Insurance Trade Practices Act except as otherwise provided in this section. In the event of a conflict between the Travel Insurance Act and other provisions of the insurance laws of this state regarding the sale and marketing of travel insurance and travel protection plans, the provisions of the Travel Insurance Act shall control.

(2) Offering or selling a travel insurance policy that could never result in payment of any claims for any insured under the policy is an unfair trade practice.

(3)(a) All documents provided to consumers prior to the purchase of travel insurance, including, but not limited to, sales materials, advertising materials, and marketing materials, shall be consistent with the terms of the travel policy, including, but not limited to, forms, endorsements, policies, rate filings, and certificates of insurance.

(b) For travel insurance policies or certificates that contain preexisting condition exclusions, information and an opportunity to learn more about the preexisting condition exclusions shall be provided to consumers any time prior to the time of purchase of such travel insurance and in the fulfillment materials provided.

(c)(i) Fulfillment materials and the information described in subdivision

(3)(a) of section 4 of this act shall be provided to a policyholder or certificate holder as soon as practicable following the purchase of a travel protection plan. Unless the insured has either started a covered trip or filed a claim under the travel insurance policy, a policyholder or certificate holder may cancel a policy or certificate for a full refund of the travel protection plan price from the date of purchase of a travel protection plan until at least:

(A) Fifteen days following the date of delivery of the travel protection plan fulfillment materials by postal mail; or

(B) Ten days following the date of delivery of the travel protection plan fulfillment materials by means other than postal mail.

(ii) For purposes of this subdivision, delivery means handing fulfillment materials to the policyholder or certificate holder or sending fulfillment materials by postal mail or electronic means to the policyholder or certificate holder.

(d) The travel insurance policy documentation and fulfillment materials shall disclose whether the travel insurance is primary or secondary to other applicable coverage.

(e) If travel insurance is marketed directly to a consumer through an insurer's website or through an aggregator site, it shall not be an unfair trade practice or other violation of law where an accurate summary or short description of the coverage is provided on the web page, so long as the consumer has access to the full provisions of the policy through electronic means.

(4) No person offering, soliciting, or negotiating travel insurance or travel protection plans on an individual or group basis may do so by using a negative option or opt out, which requires a consumer to take an affirmative action to deselect coverage, such as unchecking a box on an electronic form, when the consumer purchases a trip.

(5) It shall be an unfair trade practice to market blanket travel insurance coverage as free.

(6) When a consumer's destination jurisdiction requires insurance coverage, it shall not be an unfair trade practice to require that a consumer choose between the following options as a condition of purchasing a trip or travel package:

(a) Purchasing the insurance coverage required by the destination jurisdiction through the travel retailer or limited lines travel insurance producer supplying the trip or travel package; or

(b) Agreeing to obtain and provide proof of insurance coverage that meets the destination jurisdiction's requirements prior to departure.

Sec. 8. (1) No person shall act as or represent that such person is a travel administrator for travel insurance in this state unless such person:

(a) Is a licensed property and casualty insurance producer in this state for activities permitted under such producer license;

(b) Holds a valid managing general agent license in this state; or

(c) Holds a valid third-party administrator license in this state.

(2) A travel administrator and such travel administrator's employees are exempt from the licensing requirements of adjusters for travel insurance such administrator and its employees administer.

(3) An insurer is responsible for the acts of a travel administrator administering travel insurance underwritten by the insurer and is responsible for ensuring that the travel administrator maintains all books and records relevant to the insurer to be made available by the travel administrator to the department upon request.

Sec. 9. (1) Travel insurance shall be classified and filed for purposes of rates and forms under an inland marine line of insurance, however, travel insurance that provides coverage for sickness, accident, disability, or death occurring during travel, either exclusively, or in conjunction with related coverages of emergency evacuation, repatriation of remains, or incidental limited property and casualty benefits such as baggage or trip cancellation, may be filed under either an accident and health line of insurance or an inland marine line of insurance.

(2) Travel insurance may be in the form of an individual, group, or blanket policy.

(3) Eligibility and underwriting standards for travel insurance may be developed and provided based on travel protection plans designed for individual or identified marketing or distribution channels, so long as those standards also meet this state's underwriting standards for inland marine lines of insurance.

Sec. 10. The department may adopt and promulgate rules and regulations to carry out the Travel Insurance Act.

Sec. 11. Sections 11 to 17 of this act shall be known and may be cited as the Primary Care Investment Act.

Sec. 12. On December 27, 2020, the federal Consolidated Appropriations Act, 2021, Public Law 116-260, became law. It requires group health plans, health insurance issuers, and health insurance plans to provide data to the federal government on the total amount of spending on hospital costs; health care provider and clinical service costs, for primary care and specialty care separately; costs for prescription drugs; and other medical costs, including wellness services. Primary care is important to the health of individuals and has been associated with better health outcomes at lower costs. The purpose of the Primary Care Investment Council is to analyze the data collected by the federal government in accordance with the federal Consolidated Appropriations

Act, 2021, and other data sources, to assist the Legislature in understanding:

(1) The current amount of health care spending on primary care in Nebraska from public and private sources;

(2) Barriers to residents of Nebraska accessing primary care;

(3) Barriers to health payors and medical providers in investing in primary care;

(4) Alternative payment models that deliver high-quality care and spend health care dollars more wisely;

(5) The public health benefits for Nebraska residents if the level of primary care investment in Nebraska increased;

(6) The estimated cost savings for health care consumers as well as public and private payors if the level of primary care investment increased in Nebraska;

(7) Nebraska's investment in primary care services relative to other states; and

(8) Health outcomes in Nebraska relative to other states.

Sec. 13. For purposes of the Primary Care Investment Act:

(1) Department means the Department of Insurance; and

(2) Primary care physician means a physician licensed under the Uniform Credentialing Act and practicing in the area of family medicine, pediatrics, internal medicine, geriatrics, obstetrics and gynecology, or general medicine.

Sec. 14. (1) The Primary Care Investment Council is created. The council shall consist of fifteen voting members and two ex officio, nonvoting members.

(2) The Primary Care Investment Council shall consist of the following voting members:

(a) Three representatives of primary care physicians, one representing each congressional district;

(b) A representative of behavioral health providers;

(c) A representative of hospitals;

(d) A representative of academia with experience in health care data;

(e) Two other representatives of health providers who are not primary care physicians or hospitals;

(f) Three representatives of health insurers, one of which shall be a representative of a managed care organization;

(g) One representative of large employers that purchase health insurance for employees, which representative is not an insurer;

(h) One representative of small employers that purchase group health insurance for employees, which representative is not an insurer;

(i) One health care consumer advocate who is knowledgeable about the private health insurance market; and

(j) A representative of organizations that facilitate health information exchange in Nebraska.

(3) The following officials or their designees shall serve as ex officio, nonvoting members:

(a) The Director of Insurance; and

(b) The Director of Medicaid and Long-Term Care of the Division of Medicaid and Long-Term Care of the Department of Health and Human Services.

(4) The Governor shall appoint the voting members of the council. The Governor shall appoint the initial members by October 1, 2022. Any member who ceases to meet the requirements for his or her appointment regarding representation or practice shall cease to be a member of the council. Any vacancy shall be filled in the same manner as the original appointment.

(5) The council shall select one of its members to serve as chairperson for a one-year term. The council shall conduct its organizational meeting in October 2022.

(6) The council shall terminate on July 1, 2029.

Sec. 15. The Primary Care Investment Council shall:

(1) Develop an appropriate definition for primary care investment;

(2) Measure the current level of primary care investment, measured as a part of overall health care spending, by public and private payors in Nebraska;

(3) Conduct a comparison of spending on primary care services and health outcomes in Nebraska with surrounding states and nationally;

(4) Develop an appropriate target level of primary care investment by public and private payors in Nebraska;

(5) Recommend strategies to achieve the target level of primary care investment though alternative payment models;

(6) Identify the public health benefits and estimated cost savings that would result from meeting the target level of primary care investment though alternative payment models; and

(7) Identify solutions to barriers for Nebraska residents from accessing primary care and for health payors and medical providers from investing in primary care.

Sec. 16. The Primary Care Investment Council shall convene at least once a year through 2028 to review the state's progress in meeting the target level of primary care investment, update the data regarding public health benefits and cost savings as a result of investments in primary care, update the strategies to achieve the target level of primary care investment, and consider other information as necessary.

Sec. 17. On or before November 1, 2023, and on or before each November 1 until November 1, 2028, the Primary Care Investment Council shall prepare and the department shall electronically submit a report to the Executive Board of the Legislative Council and the Governor which contains, at a minimum, the Primary Care Investment Council's findings under section 15 of this act and any

additional findings from the council regarding health care spending and health outcomes.

Sec. 18. (1) For purposes of this section:

(a) Insurance coverage means coverage under a disability insurance, life insurance, or long-term care insurance policy; and

(b) Living organ donor means an individual who:

(i) Has donated all or part of an organ; and

(ii) Is not deceased.

(2) It shall be unlawful for an insurer to deny insurance coverage, cancel insurance coverage, or determine the price or premium for, refuse to issue, or otherwise vary any term or condition of a life insurance policy, disability insurance policy, or long-term care insurance policy solely on the basis of an individual's status as a living organ donor and without any unique and material actuarial risks in accordance with sound actuarial principles and actual and reasonably anticipated and expected experiences of such individual on the basis of the individual's status as a living organ donor.

Sec. 19. Section 44-361, Reissue Revised Statutes of Nebraska, is amended to read:

44-361 (1) No insurance company, by itself or any other party, and no insurance agent or broker, personally or by any other party, shall offer, promise, allow, give, set off, or pay, directly or indirectly, any rebate of, or part of, the premium payable on the policy, or of any policy, or agent's commission thereon, or earnings, profits, dividends, or other benefits founded, arising, accruing or to accrue thereon or therefrom, or any paid employment or contract for service, or for advice of any kind, or any other valuable consideration or inducement to, or for insurance, on any risk authorized to be taken under section 44-201 now or hereafter to be written, which is not specified in the policy contract of insurance. No ~~; nor shall any~~ such company, agent, or broker, personally or otherwise, shall offer, promise, give, sell or purchase any stock, bonds, securities or property, or any dividends or profits accruing or to accrue thereon, or other things of value whatsoever, as inducement to insurance or in connection therewith, which is not specified in the policy. No insured person or party shall receive or accept, directly or indirectly, any rebate of premium, or part thereof, or agent's or broker's commission thereon, payable on the policy, or on any policy of insurance, or any favor or advantage or share in the dividends or other benefits to accrue on, or any valuable consideration or inducement not specified in the policy contract of insurance.

(2) Extending of interest-free credit on life and liability insurance premiums or interest-free credit on crop hail insurance premiums shall not be considered a rebate of the premium for purposes of this section.

(3) Payments made pursuant to the Nebraska Right to Shop Act shall not be considered a rebate of the premium for purposes of this section.

(4)(a) The offer or provision by an insurance company or an agent or broker, by or through employees, affiliates, or third-party representatives, of value-added products or services at no or reduced cost when such products or services are not specified in the policy of insurance shall not be prohibited by this section if the product or service:

(i) Relates to the insurance coverage; and

(ii) Is primarily designed to satisfy one or more of the following:

(A) Provide loss mitigation or loss control;

(B) Reduce claim costs or claim settlement costs;

(C) Provide education about liability risks or risk of loss to persons or property;

(D) Monitor or assess risk, identify sources of risk, or develop strategies for eliminating or reducing risk;

(E) Enhance health;

(F) Enhance financial wellness through items such as education or financial planning services;

(G) Provide post-loss services;

(H) Incent behavioral changes to improve the health or reduce the risk of death or disability of a customer; or

(I) Assist in the administration of the employee or retiree benefit insurance coverage.

(b) The cost to the insurance company or agent or broker offering the product or service to any given customer shall be reasonable in comparison to that customer's premiums or insurance coverage for the policy class.

(c) If the insurance company or agent or broker is providing the product or service offered, the insurance company or agent or broker shall ensure that the customer is provided with contact information to assist the customer with questions regarding the product or service.

(d) The Director of Insurance may adopt and promulgate rules and regulations when implementing the permitted practices set forth in this subsection to ensure consumer protection. Such rules and regulations, consistent with applicable law, may address, among other issues, consumer data protections and privacy, consumer disclosure, and unfair discrimination.

(e) The availability of the value-added product or service shall be based on documented objective criteria and offered in a manner that is not unfairly discriminatory. The documented criteria shall be maintained by the insurance company or agent or broker and produced upon request by the Department of Insurance.

(f) If an insurance company or agent or broker does not have sufficient evidence, but has a good-faith belief that the product or service will achieve

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the purpose for which such product or service was primarily designed under subdivision (4)(a)(ii) of this section, the insurance company or agent or broker may provide the product or service in a manner that is not unfairly discriminatory as part of a pilot or testing program for no more than one year. An insurance company or an agent or broker shall notify the Department of Insurance of any such pilot or testing program offered to consumers in this state prior to launching such pilot or testing program and may proceed with the program unless the department objects within twenty-one days of such notice.

(5) Notwithstanding the other provisions of this section, an insurance company or an agent or broker may:

(a) Offer or give noncash gifts, items, or services, including meals to or charitable donations on behalf of a customer, in connection with the marketing, sale, purchase, or retention of contracts of insurance, as long as the cost does not exceed an amount determined to be reasonable by the Director of Insurance, per policy year per term. The offer shall be made in a manner that is not unfairly discriminatory. The customer shall not be required to purchase, continue to purchase, or renew a policy in exchange for the gift, item, or service; and

(b) Conduct drawings or raffles to the extent permitted by state law, as long as there is no financial cost to entrants to participate, the drawing or raffle does not obligate participants to purchase insurance, the prizes are not valued in excess of a reasonable amount determined by the Director of Insurance, and the drawing or raffle is open to the public. The drawing or raffle must be offered in a manner that is not unfairly discriminatory. The customer shall not be required to purchase, continue to purchase, or renew a policy in order to participate in the drawing or raffle or in exchange for the drawing or raffle prize.

(6) For purposes of subsections (4) and (5) of this section, customer means a policyholder, potential policyholder, certificate holder, potential certificate holder, insured, potential insured, or applicant.

Sec. 20. Section 44-7,102, Reissue Revised Statutes of Nebraska, is amended to read:

44-7,102 (1) Notwithstanding section 44-3,131, (a) any individual or group sickness and accident insurance policy, certificate, or subscriber contract delivered, issued for delivery, or renewed in this state and any hospital, medical, or surgical expense-incurred policy, except for short-term major medical policies of six months or less duration and policies that provide coverage for a specified disease or other limited-benefit coverage, and (b) any self-funded employee benefit plan to the extent not preempted by federal law shall include screening coverage for a colorectal cancer examination and laboratory tests for cancer for any nonsymptomatic person forty-five ~~fifty~~ years of age or ~~and~~ older covered under such policy, certificate, contract, or plan. Such screening coverage shall include a maximum of one screening fecal occult blood test annually and a flexible sigmoidoscopy every five years, a colonoscopy every ten years, or a barium enema every five to ten years, or any combination, or the most reliable, medically recognized screening test available. The screenings selected shall be as deemed appropriate by a health care provider and the patient.

(2) This section does not prevent application of deductible or copayment provisions contained in the policy, certificate, contract, or employee benefit plan or require that such coverage be extended to any other procedures.

Sec. 21. Section 44-2121, Reissue Revised Statutes of Nebraska, is amended to read:

44-2121 For purposes of the Insurance Holding Company System Act:

(1) An affiliate of, or person affiliated with, a specific person means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with the person specified;

(2) Control, including controlling, controlled by, and under common control with, means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control is presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing ten percent or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by subsection (11) of section 44-2132 that control does not exist in fact. The director may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect;

(3) Director means the Director of Insurance;

(4) Director or commissioner of the lead state means the director or commissioner of insurance in the lead state for the insurance holding company system as determined by the procedures within the Financial Analysis Handbook adopted by the National Association of Insurance Commissioners;

(5) ~~(4)~~ Enterprise risk means any activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including, but not limited to, anything that would cause the

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insurer's risk-based capital to fall into company action level as set forth in section 44-6011 or would cause the insurer to be in hazardous financial condition as defined by rule and regulation adopted and promulgated by the director to define standards for companies deemed to be in hazardous financial condition;

(6) Group capital calculation instructions means the group capital calculation instructions as adopted by the National Association of Insurance Commissioners and amended from time to time in accordance with its adopted procedures;

(7) ~~(5)~~ Group-wide supervisor means the chief insurance regulatory official, including the director, who (a) is authorized to conduct and coordinate group-wide supervision activities of an international insurance group and (b) is from the jurisdiction determined or acknowledged by the director under section 44-2155 to have sufficient contacts with the international insurance group;

(8) ~~(6)~~ An insurance holding company system shall consist of two or more affiliated persons, one or more of which is an insurer;

(9) ~~(7)~~ Insurer has the same meaning as in section 44-103, except that insurer does not include agencies, authorities, or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state;

(10) ~~(8)~~ International insurance group means an insurance holding company system that has been determined by the director to be an international insurance group under section 44-2154;

(11) NAIC Liquidity Stress Test Framework means a separate publication of the National Association of Insurance Commissioners which includes a history of the National Association of Insurance Commissioners' development of regulatory liquidity stress testing, the scope criteria applicable for a specific data year, and the liquidity stress test instructions and reporting templates for a specific data year;

(12) ~~(9)~~ Person means an individual, a corporation, a partnership, a limited partnership, an association, a joint-stock company, a trust, an unincorporated organization, any similar entity, or any combination of such entities acting in concert but does not include any joint-venture partnership exclusively engaged in owning, managing, leasing, or developing real or tangible personal property;

(13) Scope criteria means, as detailed in the NAIC Liquidity Stress Test Framework, the designated exposure bases along with minimum magnitudes thereof for the specified data year, used to establish a preliminary list of insurers considered scoped into the NAIC Liquidity Stress Test Framework for such data year;

(14) ~~(10)~~ Security holder of a specified person means one who owns any security of such person, including common stock, preferred stock, debt obligations, and any other security convertible into or evidencing the right to acquire any such stock or obligations;

(15) ~~(11)~~ Subsidiary of a specified person means an affiliate controlled by such person directly or indirectly through one or more intermediaries; and

(16) ~~(12)~~ Voting security includes any security convertible into or evidencing a right to acquire a voting security.

Sec. 22. Section 44-2132, Reissue Revised Statutes of Nebraska, is amended to read:

44-2132 (1) Every insurer which is authorized to do business in this state and which is a member of an insurance holding company system shall register with the director, except that registration shall not be required for a foreign insurer subject to registration requirements and standards adopted by statute or regulation in the jurisdiction of its domicile which are substantially similar to those contained in this section, subsection (1) of section 44-2133, sections 44-2134 and 44-2136, and either subsection (2) of section 44-2133 or a provision such as the following: Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions within fifteen days after the end of the month in which it learns of each such change or addition. Any insurer which is subject to registration under this section shall register within fifteen days after it becomes subject to registration and annually thereafter by May 1 of each year for the previous calendar year unless the director for good cause shown extends the time for such initial or annual registration and then within such extended time. The director may require any insurer which is authorized to do business in the state, which is a member of an insurance holding company system, and which is not subject to registration under this section to furnish a copy of the registration statement, the summary specified in subsection (3) of this section, or other information filed by such insurer with the insurance regulatory authority of its domiciliary jurisdiction.

(2) Every insurer subject to registration shall file the registration statement with the director on a form and in a format prescribed by the National Association of Insurance Commissioners which shall contain the following current information:

(a) The capital structure, general financial condition, ownership, and management of the insurer and any person controlling the insurer;

(b) The identity and relationship of every member of the insurance holding company system;

(c) The following agreements in force and transactions currently outstanding or which have occurred during the last calendar year between such insurer and its affiliates:

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(i) Loans, other investments, or purchases, sales, or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;

(ii) Purchases, sales, or exchanges of assets;

(iii) Transactions not in the ordinary course of business;

(iv) Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;

(v) All management agreements, service contracts, and cost-sharing arrangements;

(vi) Reinsurance agreements;

(vii) Dividends and other distributions to shareholders; and

(viii) Consolidated tax allocation agreements;

(d) Any pledge of the insurer's stock, including stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system;

(e) If requested by the director, the insurer shall include financial statements of or within an insurance holding company system, including all affiliates. Financial statements may include, but are not limited to, annual audited financial statements filed with the Securities and Exchange Commission pursuant to the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended. An insurer required to file financial statements pursuant to this subdivision may satisfy the request by providing the director with the most recently filed parent corporation financial statements that have been filed with the Securities and Exchange Commission;

(f) Statements that show that the insurer's board of directors oversees corporate governance and internal controls and that the insurer's officers or senior management have approved, implemented, and continue to maintain and monitor corporate governance and internal control procedures;

(g) Other matters concerning transactions between registered insurers and any affiliates as may be included from time to time in any registration forms adopted or approved by the director; and

(h) Any other information required by rules and regulations which the director may adopt and promulgate.

(3) All registration statements shall contain a summary outlining all items in the current registration statement representing changes from the prior registration statement.

(4) It shall not be necessary to disclose on the registration statement information which is not material for the purposes of this section. Unless the director by rule, regulation, or order provides otherwise, sales, purchases, exchanges, loans, or extensions of credit, investments, or guarantees involving one-half of one percent or less of an insurer's admitted assets as of December 31 next preceding shall not be deemed material for purposes of this section. Such exclusion from the definition of material shall not apply for purposes of group capital calculation instructions or the NAIC Liquidity Stress Test Framework.

(5) Subject to the requirements of section 44-2134, each registered insurer shall give notice to the director of all dividends and other distributions to shareholders within five business days following the declaration thereof and shall not pay any such dividends or other distributions to shareholders within ten business days following receipt of such notice by the director unless for good cause shown the director has approved such payment within such ten-business-day period.

(6) Any person within an insurance holding company system subject to registration shall be required to provide complete and accurate information to an insurer when such information is reasonably necessary to enable the insurer to comply with the Insurance Holding Company System Act.

(7) The director shall terminate the registration of any insurer which demonstrates that it no longer is a member of an insurance holding company system.

(8) The director may require or allow two or more affiliated insurers subject to registration under this section to file a consolidated registration statement.

(9) The director may allow an insurer which is authorized to do business in this state and which is part of an insurance holding company system to register on behalf of any affiliated insurer which is required to register under subsection (1) of this section and to file all information and material required to be filed under this section.

(10) This section shall not apply to any insurer, information, or transaction if and to the extent that the director by rule, regulation, or order exempts the same from this section.

(11) Any person may file with the director a disclaimer of affiliation with any authorized insurer or such a disclaimer may be filed by such insurer or any member of an insurance holding company system. The disclaimer shall fully disclose all material relationships and bases for affiliation between such person and such insurer as well as the basis for disclaiming such affiliation. A disclaimer of affiliation shall be deemed to have been granted unless the director, within thirty days after receipt of a complete disclaimer, notifies the filing party that the disclaimer is disallowed. If the disclaimer is disallowed, the disclaiming party may request and shall be entitled to an administrative hearing. The disclaiming party shall be relieved of its duty to register under this section if approval of the disclaimer has been granted by

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the director or if the disclaimer is deemed to have been approved.

(12) The ultimate controlling person of every insurer subject to registration shall also file an annual enterprise risk report. The report shall, to the best of the ultimate controlling person's knowledge and belief, identify the material risks within the insurance holding company system that could pose enterprise risk to the insurer. The report shall be filed with the ~~lead state~~ director or commissioner of the lead state ~~insurance holding company system as determined by the procedures within the Financial Analysis Handbook adopted by the National Association of Insurance Commissioners~~.

(13)(a) Except as otherwise provided in this section, the ultimate controlling person of every insurer subject to registration shall concurrently file with the registration an annual group capital calculation as directed by the director or commissioner of the lead state. The annual group capital calculation shall be completed in accordance with the group capital calculation instructions, which may permit the director or commissioner of the lead state to allow a controlling person that is not the ultimate controlling person to file the annual group capital calculation. The annual group capital calculation shall be filed with the director or commissioner of the lead state. The following insurance holding company systems shall be exempt from filing an annual group capital calculation:

(i) An insurance holding company system that has only one insurer within its holding company structure, only writes business and is only licensed in its domestic state, and assumes no business from any other insurer;

(ii) An insurance holding company system that is required to perform a group capital calculation specified by the Federal Reserve Board. The director or commissioner of the lead state shall request the calculation from the Federal Reserve Board under the terms of information-sharing agreements in effect. If the Federal Reserve Board cannot share the calculation with the director or commissioner of the lead state, the insurance holding company system is not exempt from the annual group capital calculation filing requirement;

(iii) An insurance holding company system whose non-United-States group-wide supervisor is located within a reciprocal jurisdiction as described in subdivision (7)(a)(i) of section 44-416.06 that recognizes the state regulatory approach to group supervision and group capital of the United States; and

(iv) An insurance holding company system:

(A) That provides information to the director or commissioner of the lead state that meets the requirements for accreditation under the financial standards and accreditation program of the National Association of Insurance Commissioners, either directly or indirectly through the group-wide supervisor, who has determined such information is satisfactory to allow the director or commissioner of the lead state to comply with the group supervision approach of the National Association of Insurance Commissioners, as detailed in the Financial Analysis Handbook of the National Association of Insurance Commissioners; and

(B) Whose non-United-States group-wide supervisor, that is not in a reciprocal jurisdiction, recognizes and accepts, as provided in subsection (15) of this section, the group capital calculation as the worldwide group capital assessment for United States' insurance groups who operate in that jurisdiction.

(b) Notwithstanding subdivisions (13)(a)(iii) and (iv) of this section, the director or commissioner of the lead state shall require the filing of the annual group capital calculation for the United States operations of any non-United-States-based insurance holding company system if, after any necessary consultation with other supervisors or officials, it is deemed appropriate by the director or commissioner of the lead state for prudential oversight and solvency monitoring purposes or for ensuring the competitiveness of the insurance marketplace.

(c) Notwithstanding the exemptions from filing the annual group capital calculation stated in subdivisions (13)(a)(i) through (iv) of this section, the director or commissioner of the lead state has the discretion to exempt the ultimate controlling person from filing the annual group capital calculation or to accept a limited group capital filing in accordance with subsection (14) of this section.

(d) If the director or commissioner of the lead state determines that an insurance holding company system no longer meets one or more of the requirements for an exemption from filing the annual group capital calculation under this subsection, the insurance holding company system shall file the annual group capital calculation at the next annual filing date unless given an extension by the director or commissioner of the lead state based on reasonable grounds shown.

(14)(a) The director or commissioner of the lead state has the discretion to exempt the ultimate controlling person from filing the annual group capital calculation if the director or commissioner of the lead state determines that:

(i) The holding company system has annual direct written and unaffiliated assumed premium, including international direct and assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and the national flood insurance program, of less than one billion dollars;

(ii) The holding company system has no insurers within its holding company structure that are domiciled outside of the United States or one of its territories;

(iii) The holding company system has no banking, depository, or other financial entity that is subject to an identified regulatory capital framework

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within its holding company structure;

(iv) The holding company system attests that there are no material changes in the transactions between insurers and noninsurers in the group; and

(v) The noninsurers within the holding company system do not pose a material financial risk to the insurer's ability to honor policyholder obligations.

(b) The director or commissioner of the lead state has the discretion to accept, in lieu of the group capital calculation, a limited group capital filing if the holding company system:

(i) Has annual direct written and unaffiliated assumed premium, including international direct and assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and the national flood insurance program, of less than one billion dollars;

(ii) Has no insurers within its holding company structure that are domiciled outside of the United States or one of its territories;

(iii) Does not include a banking, depository, or other financial entity that is subject to an identified regulatory capital framework; and

(iv) Attests that there are no material changes in transactions between insurers and noninsurers in the group that have occurred and the noninsurers within the holding company system do not pose a material financial risk to the insurers ability to honor policyholder obligations.

(c) For an insurance holding company that has previously met an exemption with respect to the group capital calculation pursuant to subdivisions (14)(a) and (b) of this section, the director or commissioner of the lead state may require, at any time, the ultimate controlling person to file an annual group capital calculation, completed in accordance with the group capital calculation instructions, if:

(i) Any insurer within the insurance holding company system is in a risk-based capital company action level event as set forth in section 44-6016 or a similar standard for a non-United-States insurer;

(ii) Any insurer within the insurance holding company system meets one or more of the standards of an insurer deemed to be in hazardous financial condition as defined by rule and regulation adopted and promulgated by the director to define standards for companies deemed to be in hazardous financial condition; or

(iii) Any insurer within the insurance holding company system otherwise exhibits qualities of a troubled insurer as determined by the director or commissioner of the lead state based on unique circumstances, including, but not limited to, the type and volume of business written, ownership and organizational structure, federal agency requests, and international supervisor requests.

(15) A non-United-States jurisdiction is considered to recognize and accept the group capital calculation if:

(a) For annual group capital calculations under subdivision (13)(a)(iv) of this section:

(i) The non-United-States jurisdiction recognizes the United States state regulatory approach to group supervision and group capital by providing confirmation by a competent regulatory authority in such jurisdiction that insurers and insurance groups whose lead state is accredited by the National Association of Insurance Commissioners under its accreditation program shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by the lead state and will not be subject to group supervision, including worldwide group governance, solvency and capital, and reporting, at the level of the worldwide parent undertaking of the insurance or reinsurance group by the non-United-States jurisdiction; or

(ii) The non-United-States jurisdiction, if such jurisdiction has no United States insurance groups operating in such jurisdiction, indicates formally in writing to the lead state with a copy to the International Association of Insurance Supervisors that the group capital calculation is an acceptable international capital standard. Such writing will serve as the documentation otherwise required in subdivision (15)(a)(i) of this section; or

(b) The non-United-States jurisdiction provides confirmation by a competent regulatory authority in such jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the director or commissioner of the lead state in accordance with a memorandum of understanding or similar document between the director and such jurisdiction, including, but not limited to, the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the National Association of Insurance Commissioners. The director shall determine, in consultation with the National Association of Insurance Commissioners, if the requirements of the information-sharing agreements are in force.

(16)(a) A list of non-United-States jurisdictions that recognize and accept the group capital calculation shall be published through the National Association of Insurance Commissioners committee process.

(b) A list of jurisdictions that recognize and accept the group capital calculation pursuant to subdivision (13)(a)(iv) of this section shall be published in accordance with the National Association of Insurance Commissioners committee process to assist the director or commissioner of the lead state in determining which insurers shall file an annual group capital calculation. The list will clarify those situations in which a jurisdiction is

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exempt from filing under subdivision (13)(a)(iv) of this section. To assist with a determination under subdivision (13)(b) of this section, the list will also identify whether a jurisdiction that is exempt under subdivision (13)(a)(iii) or (iv) of this section requires a group capital filing for any United-States-based insurance group's operations in that non-United-States jurisdiction.

(c) For a non-United-States jurisdiction where no United States insurance groups operate, the confirmation provided to meet the requirement of subdivision (15)(a)(ii) of this section will serve as support for a recommendation that such non-United-States jurisdiction be published as a jurisdiction that recognizes and accepts the group capital calculation through the National Association of Insurance Commissioners committee process.

(d) If the director or commissioner of the lead state makes a determination pursuant to subdivision (13)(a)(iv) of this section that differs from the National Association of Insurance Commissioners list, the director or commissioner of the lead state shall provide thoroughly documented justification to the National Association of Insurance Commissioners and other states.

(e) Upon determination by the director or commissioner of the lead state that a non-United-States jurisdiction no longer meets one or more of the requirements to recognize and accept the group capital calculation, the director or commissioner of the lead state may provide a recommendation to the National Association of Insurance Commissioners that the non-United-States jurisdiction be removed from the list of jurisdictions that recognize and accept the group capital calculation.

(17)(a) The ultimate controlling person of every insurer that is subject to registration and scoped into the NAIC Liquidity Stress Test Framework shall file the results of a specific data year's liquidity stress test. The filing shall be made to the director or commissioner of the lead state.

(b) The NAIC Liquidity Stress Test Framework includes scope criteria applicable to a specific data year. These scope criteria are reviewed at least annually by the Financial Stability Task Force of the National Association of Insurance Commissioners or any successor to the task force. Any change to the NAIC Liquidity Stress Test Framework or to the data year for which the scope criteria are to be measured shall be effective on January 1 following the calendar year when such changes are adopted. Insurers meeting at least one threshold of the scope criteria shall be considered scoped into the NAIC Liquidity Stress Test Framework for the specified data year unless the director or commissioner of the lead state, in consultation with the Financial Stability Task Force of the National Association of Insurance Commissioners or any successor to the task force, determines the insurer should not be scoped into the framework for such data year. Similarly, insurers that do not meet at least one threshold of the scope criteria shall be considered scoped out of the NAIC Liquidity Stress Test Framework for the specified data year unless the director or commissioner of the lead state, in consultation with the Financial Stability Task Force or any successor to the task force, determines the insurer should be scoped into the framework for that data year.

(c) In order for regulators to avoid having insurers scoped in and out of the NAIC Liquidity Stress Test Framework on a frequent basis, the director or commissioner of the lead state, in consultation with the Financial Stability Task Force or any successor to the task force, shall assess this concern as part of the determination for an insurer.

(d) The performance of, and filing of the results from, a liquidity stress test for a specific data year shall comply with the instructions and reporting templates for the NAIC Liquidity Stress Test Framework for such data year and any determinations made by the director or commissioner of the lead state, in consultation with the Financial Stability Task Force or any successor to the task force, provided within the NAIC Liquidity Stress Test Framework.

(18) ~~(13)~~ The failure to file a registration statement or any summary of the registration statement thereto or enterprise risk report required by this section within the time specified for such filing shall be a violation of this section.

Sec. 23. Section 44-2138, Reissue Revised Statutes of Nebraska, is amended to read:

44-2138 (1)(a) ~~(1)~~ All information, documents, and copies thereof obtained by or disclosed to the director or any other person in the course of an examination or investigation made pursuant to section 44-2137 and all information reported or provided to the director pursuant to sections 44-2132 to 44-2136 and 44-2155 shall be recognized by this state as being proprietary and containing trade secrets, shall be given confidential treatment, shall not be subject to subpoena, and shall not be made public by the director, the National Association of Insurance Commissioners and its affiliates and subsidiaries, or any other person, except to other state, federal, foreign, and international regulatory and law enforcement agencies if the recipient agrees in writing to maintain the confidentiality of the information, without the prior written consent of the insurer to which it pertains unless the director, after giving the insurer and its affiliates who would be affected thereby notice and opportunity to be heard, determines that the interest of policyholders, shareholders, or the public will be served by the publication thereof, in which event he or she may publish all or any part thereof in such manner as he or she may deem appropriate.

(b) For purposes of the information filed with the Director of Insurance pursuant to subsection (13) of section 44-2132, the director shall maintain the

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confidentiality of the annual group capital calculation and group capital ratio produced within the calculation and any group capital information received from an insurance holding company supervised by the Federal Reserve Board or by any United States group-wide supervisor.

(c) For purposes of the information filed with the Director of Insurance pursuant to subsection (17) of section 44-2132, the director shall maintain the confidentiality of the liquidity stress test results and supporting disclosures and any liquidity stress test information received from an insurance holding company supervised by the Federal Reserve Board and non-United-States group-wide supervisors.

(2) The director may receive information, documents, and copies of information and documents, including proprietary and trade secret information, disclosed to other state, federal, foreign, or international regulatory and law enforcement agencies and from the National Association of Insurance Commissioners and its affiliates and subsidiaries pursuant to an examination of an insurance holding company system. The director shall maintain information, documents, and copies of information and documents received pursuant to this subsection as confidential or privileged if received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the information. Such information shall not be a public record subject to disclosure by the director pursuant to sections 84-712 to 84-712.09, subject to subpoena, subject to discovery, or admissible in evidence in any private civil action, except that the director may use such information in any regulatory or legal action brought by the director. The director, and any other person while acting under the authority of the director who has received information pursuant to this subsection, may not, and shall not be required to, testify in any private civil action concerning any information subject to this section. Nothing in this section shall constitute a waiver of any applicable privilege or claim of confidentiality in the information received pursuant to this subsection as a result of information sharing authorized by this section.

(3) In order to assist in the performance of the director's duties, the director may share information, including any proprietary or trade secret document or material, with state, federal, and international regulatory agencies, with the National Association of Insurance Commissioners, with any third-party consultant designated by the director, and with ~~and its affiliates and subsidiaries,~~ state, federal, and international law enforcement authorities, including members of any supervisory college described in section 44-2137.01, with the International Association of Insurance Supervisors, and with the Bank for International Settlements under the conditions set forth in section 44-154 if the recipient agrees in writing to maintain the confidentiality and privileged status of the document, material, or ~~other~~ information and has verified in writing the legal authority to maintain confidentiality. The director may only share any confidential and privileged document ~~documents~~, material, or information filed ~~reported~~ pursuant to subsection (12) of section 44-2132 with directors or commissioners of states having statutes or regulations substantially similar to subsection (1) of this section and who have agreed in writing not to disclose such document, material, or information.

(4) The director shall enter into written agreements with the National Association of Insurance Commissioners and any third-party consultant designated by the director governing sharing and use of any document, material, or information provided pursuant to this section that shall:

(a) Specify procedures and protocols regarding the confidentiality and security of information shared with the National Association of Insurance Commissioners or any third-party consultant designated by the director ~~and its affiliates and subsidiaries~~ pursuant to this section, including procedures and protocols for sharing by the association or any third-party consultant designated by the director with other state, federal, or international regulators. The agreement shall provide that the recipient agrees in writing to maintain the confidentiality and privileged status of any such document, material, or information and has verified in writing the legal authority to maintain such confidentiality;

(b) Specify that ownership of any document, material, or information shared with the National Association of Insurance Commissioners or any third-party consultant designated by the director ~~and its affiliates and subsidiaries~~ pursuant to this section remains with the director and ~~the association's~~ use of any document, material, or ~~the~~ information by the association or any third-party consultant designated by the director is subject to the direction of the director;

(c) Prohibit the National Association of Insurance Commissioners or any third-party consultant designated by the director from storing any document, material, or information shared pursuant to this section in a permanent database after the underlying analysis is completed. This subdivision does not apply to any document, material, or information filed pursuant to subsection (17) of section 44-2132;

(d) ~~(c)~~ Require prompt notice to be given to an insurer whose confidential document, material, or information in the possession of the National Association of Insurance Commissioners or any third-party consultant designated by the director pursuant to this section is subject to a request or subpoena to the association or any third-party consultant designated by the director for disclosure or production; ~~and~~

(e) ~~(d)~~ Require the National Association of Insurance Commissioners or any

third-party consultant designated by the director ~~and its affiliates and subsidiaries~~ to consent to intervention by an insurer in any judicial or administrative action in which the association or any third-party consultant designated by the director ~~and its affiliates and subsidiaries~~ may be required to disclose confidential information about the insurer shared with the association or any third-party consultant designated by the director ~~and its affiliates and subsidiaries~~ pursuant to this section; and ~~.~~

(f) For any document, material, or information filed pursuant to subsection (17) of section 44-2132, in the case of an agreement involving any third-party consultant designated by the director, provide for notification to the applicable insurers of the identity of such third-party consultant.

(5) The sharing of any document, material, or information by the director pursuant to this section shall not constitute a delegation of regulatory authority or rulemaking, and the director is solely responsible for the administration, execution, and enforcement of this section.

(6) No waiver of any applicable privilege or claim of confidentiality in any document, material ~~the documents, materials~~, or information shall occur as a result of disclosure to the director under this section or as a result of sharing as authorized by this section.

(7) Any document, material ~~Documents, materials~~, or ~~other~~ information in the possession or control of the National Association of Insurance Commissioners or any third-party consultant designated by the director pursuant to this section shall be confidential and privileged, shall not be subject to public disclosure under section 84-712, shall not be subject to subpoena, and shall not be subject to discovery or admissible as evidence in any private civil action.

(8) The annual group capital calculation and resulting group capital ratio required under subsection (13) of section 44-2132 and the liquidity stress test along with its results and supporting disclosures required under subsection (17) of section 44-2132 shall be considered regulatory tools for assessing group risks and capital adequacy and group liquidity risks, respectively, and shall not be used as a means to rank insurers or insurance holding company systems. Except as otherwise may be required under the Insurance Holding Company System Act, it is unlawful to make, publish, disseminate, circulate, place before the public, or cause directly or indirectly to be made, published, disseminated, circulated, or placed before the public in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station or any electronic means of communication available to the public, or in any other way as an advertisement, announcement, or statement containing a representation or statement with regard to the annual group capital calculation, the group capital ratio, the liquidity stress test results, or supporting disclosures for the liquidity stress test of any insurer or any insurer group, or of any component derived in the calculation by any insurer, broker, or other person engaged in any manner in the insurance business, except that if any materially false statement with respect to the annual group capital calculation, the resulting group capital ratio, an inappropriate comparison of any amount to an insurer's or insurance group's annual group capital calculation or resulting group capital ratio, liquidity stress test result, supporting disclosures for the liquidity stress test, or an inappropriate comparison of any amount to an insurer's or insurance group's liquidity stress test result or supporting disclosures is published in any written publication and the insurer is able to demonstrate to the director with substantial proof the falsity of such statement or the inappropriateness, as the case may be, then the insurer may publish announcements in a written publication if the sole purpose of the announcement is to rebut the materially false statement.

Sec. 24. Section 44-4052, Reissue Revised Statutes of Nebraska, is amended to read:

44-4052 (1) A resident individual applying for an insurance producer license shall pass a written examination unless exempt pursuant to section 44-4056~~, 44-4068,~~ or 44-4069 or subsection (4) of section 4 of this act. The examination shall test the knowledge of the individual concerning the lines of authority for which application is made, the duties and responsibilities of an insurance producer, and the insurance laws, rules, and regulations of this state. Examinations required by this section shall be developed and conducted under rules and regulations adopted and promulgated by the director.

(2) The director may make arrangements, including contracting with an outside testing service, for administering examinations and collecting the nonrefundable fee set forth in section 44-4064.

(3) Each individual applying for an examination shall remit a nonrefundable fee as prescribed by the director as set forth in section 44-4064.

(4) An individual who fails to appear for the examination as scheduled or fails to pass the examination shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

Sec. 25. Section 44-5103, Reissue Revised Statutes of Nebraska, is amended to read:

44-5103 For purposes of the Insurers Investment Act:

(1) Admitted assets means the investments authorized under the act and stated at values at which they are permitted to be reported in the insurer's financial statement filed under section 44-322, except that admitted assets does not include assets of separate accounts, the investments of which are not subject to the act;

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(2) Agent means a national bank, state bank, trust company, or broker-dealer that maintains an account in its name in a clearing corporation or that is a member of the Federal Reserve System and through which a custodian participates in a clearing corporation including the Treasury/Reserve Automated Debt Entry Securities System and Treasury Direct system, except that with respect to securities issued by institutions organized or existing under the laws of a foreign country or securities used to meet deposit requirements pursuant to the laws of a foreign country as a condition of doing business therein, agent may include a corporation that is organized or existing under the laws of a foreign country and that is legally qualified under those laws to accept custody of securities;

(3) Business entity means a sole proprietorship, corporation, limited liability company, association, partnership, limited liability partnership, joint-stock company, joint venture, mutual fund, trust, joint tenancy, or other similar form of business organization, whether organized for profit or not for profit;

(4) Clearing corporation means a clearing corporation as defined in subdivision (a)(5) of section 8-102, Uniform Commercial Code, that is organized for the purpose of effecting transactions in securities by computerized book-entry, except that with respect to securities issued by institutions organized or existing under the laws of a foreign country or securities used to meet the deposit requirements pursuant to the laws of a foreign country as a condition of doing business therein, clearing corporation may include a corporation that is organized or existing under the laws of a foreign country and which is legally qualified under those laws to effect transactions in securities by computerized book-entry. Clearing corporation also includes Treasury/Reserve Automated Debt Entry Securities System and Treasury Direct system;

(5) Custodian means:

(a) A national bank, state bank, Federal Home Loan Bank, or trust company that shall at all times during which it acts as a custodian pursuant to the Insurers Investment Act be no less than adequately capitalized as determined by the standards adopted by the regulator charged with establishing such standards and assessing the solvency of such institutions and that is regulated by federal or state banking laws or the Federal Home Loan Bank Act or is a member of the Federal Reserve System and that is legally qualified to accept custody of securities in accordance with the standards set forth below, except that with respect to securities issued by institutions organized or existing under the laws of a foreign country, or securities used to meet the deposit requirements pursuant to the laws of a foreign country as a condition of doing business therein, custodian may include a bank or trust company incorporated or organized under the laws of a country other than the United States that is regulated as such by that country's government or an agency thereof that shall at all times during which it acts as a custodian pursuant to the Insurers Investment Act be no less than adequately capitalized as determined by the standards adopted by international banking authorities and that is legally qualified to accept custody of securities; or

(b) A broker-dealer that shall be registered with and subject to jurisdiction of the Securities and Exchange Commission, maintains membership in the Securities Investor Protection Corporation, and has a tangible net worth equal to or greater than two hundred fifty million dollars;

(6) Custodied securities means securities held by the custodian or its agent or in a clearing corporation, including the Treasury/Reserve Automated Debt Entry Securities System and Treasury Direct system;

(7) Direct when used in connection with the term obligation means that the designated obligor is primarily liable on the instrument representing the obligation;

(8) Director means the Director of Insurance;

(9) Insurer is defined as provided in section 44-103, and unless the context otherwise requires, insurer means domestic insurer;

(10) Mortgage means a consensual interest created by a real estate mortgage, a trust deed on real estate, or a similar instrument;

(11) Obligation means a bond, debenture, note, or other evidence of indebtedness or a participation, certificate, or other evidence of an interest in any of the foregoing;

(12) Policyholders surplus means the amount obtained by subtracting from the admitted assets (a) actual liabilities and (b) any and all reserves which by law must be maintained. In the case of a stock insurer, the policyholders surplus also includes the paid-up and issued capital stock;

(13) Primary credit source means the credit source to which an insurer looks for payment as to an investment and against which an insurer has a claim for full payment;

(14) ~~(13)~~ Securities Valuation Office means the Securities Valuation Office of the National Association of Insurance Commissioners or any successor office established by the National Association of Insurance Commissioners;

(15) ~~(14)~~ Security certificate has the same meaning as defined in subdivision (a)(16) of section 8-102, Uniform Commercial Code;

(16) ~~(15)~~ State means any state of the United States, the District of Columbia, or any territory organized by Congress;

(17) ~~(16)~~ Tangible net worth means shareholders equity, less intangible assets, as reported in the broker-dealer's most recent Annual or Transition Report pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934, S.E.C. Form 10-K, filed with the Securities and Exchange Commission; and

(18) ~~(17)~~ Treasury/Reserve Automated Debt Entry Securities System and

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Treasury Direct system mean the book-entry securities systems established pursuant to 5 U.S.C. 301, 12 U.S.C. 391, and 31 U.S.C. 3101 et seq. The operation of the systems are subject to 31 C.F.R. part 357 et seq.

Sec. 26. Section 44-5105, Reissue Revised Statutes of Nebraska, is amended to read:

44-5105 (1) An insurer shall not make any investment, sale, loan, or exchange, except loans on its own policies or contracts, unless authorized, approved, or ratified by a majority of the members of the board of directors or by a committee of its members charged by the board of directors or bylaws with the duty of making such investment, sale, loan, or exchange. The board of directors shall further determine by formal resolution at least annually whether all investments have been made in accordance with the delegations, standards, limitations, and investment objectives prescribed by the board of directors or a committee of the board of directors charged with the responsibility to direct its investments.

(2) The board of directors, after reviewing and assessing the insurer's technical investment and administrative capabilities and expertise, shall adopt a written plan for making investments and for engaging in investment practices. The plan shall specify, unless otherwise authorized by the Director of Insurance, the quality, maturity, and diversification of investments, including investment strategies intended to assure that the investments and investment practices are appropriate for the business conducted by the insurer, its liquidity needs, and its capital and surplus. At least annually, the board of directors or a committee of the board of directors shall review and revise, as appropriate, the written plan.

(3) On no less than a quarterly basis, and more often if deemed appropriate, the board of directors or committee of the board of directors shall receive ~~: (a) Receive~~ and review a summary report on the insurer's investment portfolio, investment activities, and investment practices engaged in under delegated authority, in order to determine whether the investment activity of the insurer is consistent with its written plan. ~~; and~~

~~(b) Review and revise, as appropriate, the written plan.~~

(4) The board of directors shall require that records of authorizations, approvals or other documentation as the board of directors may require, and reports of any action taken under authority delegated under the written plan shall be made available on a regular basis to the board of directors.

(5) The board of directors shall perform its duties in good faith and with that degree of care that ordinarily prudent individuals in like positions would use under similar circumstances.

(6) Each insurer shall maintain a record of its investments in a form and manner as prescribed by the Director of Insurance. Such record shall include an indication by the insurer of the provision of law under which an investment is held.

(7) For purposes of this section, board of directors includes the governing body of an insurer having authority equivalent to that of a board of directors.

Sec. 27. Section 44-5120, Reissue Revised Statutes of Nebraska, is amended to read:

44-5120 (1) An insurer may lend its securities if:

(a) The securities are created or existing under the laws of the United States and, simultaneously with the delivery of the loaned securities, the insurer receives collateral from the borrower consisting of cash or securities backed by the full faith and credit of the United States or an agency or instrumentality of the United States, except that any securities provided as collateral shall not be of lesser quality than the quality of the loaned securities. Any investment made by an insurer with cash received as collateral for loaned securities shall be made in the same kinds, classes, and investment grades as those authorized under the Insurers Investment Act and in a manner that recognizes the liquidity needs of the transaction or is used by the insurer for its general corporate purposes. The securities provided as collateral shall have a market value when the loan is made of at least one hundred two percent of the market value of the loaned securities;

(b) The securities are created or existing under the laws of Canada or are securities described in section 44-5137 and, simultaneously with the delivery of the loaned securities, the insurer receives collateral from the borrower consisting of cash or securities backed by the full faith and credit of the foreign country, except that any securities provided as collateral shall not be of lesser quality than the quality of the loaned securities. Any investment made by an insurer with cash received as collateral for loaned securities shall be made in the same kinds, classes, and investment grades as those authorized under the Insurers Investment Act and in a manner that recognizes the liquidity needs of the transaction or is used by the insurer for its general corporate purposes. The securities provided as collateral shall have a market value when the loan is made of at least one hundred two percent of the market value of the loaned securities;

(c) Prior to the loan, the borrower or any indemnifying party furnishes the insurer with or the insurer otherwise obtains the most recent financial statement of the borrower or any indemnifying party;

(d) The insurer receives a reasonable fee related to the market value of the loaned securities and to the term of the loan;

(e) The loan is made pursuant to a written loan agreement; and

(f) The borrower is required to furnish by the close of each business day during the term of the loan a report of the market value of all collateral and

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the market value of all loaned securities as of the close of trading on the previous business day. If at the close of any business day the market value of the collateral for any loan outstanding to a borrower is less than one hundred percent of the market value of the loaned securities, the borrower shall deliver by the close of the next business day an additional amount of cash or securities. The market value of the additional securities, together with the market value of all previously delivered collateral, shall equal at least one hundred two percent of the market value of the loaned securities for that loan.

~~(2) For purposes of this section, market value includes accrued interest.~~

(2) ~~(3)~~ An insurer shall effect securities lending only through the services of a custodian bank or similar entity as approved by the director.

(3) ~~(4)~~ An insurer's investments authorized under this section shall not exceed twenty ~~ten~~ percent of its admitted assets.

Sec. 28. Section 44-5120.01, Reissue Revised Statutes of Nebraska, is amended to read:

44-5120.01 (1) For purposes of this section:

(a) Acceptable collateral means:

(i) As to reverse repurchase transactions, cash, cash equivalents, highly rated business entity obligations created or existing under the laws of the United States or Canada, public equity securities that are traded on a United States exchange, and direct obligations of, or securities that are fully guaranteed as to principal and interest by, the government of the United States or an agency of the government of the United States or the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and

(ii) As to ~~reverse~~ repurchase transactions, cash and cash equivalents;

(b) Cash equivalents means short-term, highly rated investments or securities readily convertible to known amounts of cash without penalty and so near maturity that they present insignificant risk of change in value. Cash equivalents includes government money market mutual funds and class one money market mutual funds; ~~. For purposes of this definition:~~

~~(i) Short-term means investments with a remaining term to maturity of ninety days or less; and~~

(c) ~~(ii)~~ Highly rated means an investment with a minimum quality rating as described in subdivision (2) of section 44-5112 ~~rated at least P-1 by Moody's Investors Service, Inc., A-1 by Standard and Poor's division of The McGraw-Hill Companies, Inc., or its equivalent rating by a nationally recognized statistical rating organization recognized by the Securities Valuation Office~~;

~~(c) Repurchase transaction means a transaction in which an insurer purchases securities from a business entity that is obligated to repurchase the purchased securities or equivalent securities from the insurer at a specified price, either within a specified period of time or upon demand; and~~

(d) Repurchase ~~(d) Reverse repurchase~~ transaction means a transaction in which an insurer sells securities to a business entity and is obligated to repurchase the sold securities or equivalent securities from the business entity at a specified price, either within a specified period of time or upon demand; ~~.~~

(e) Reverse repurchase transaction means a transaction in which an insurer purchases securities from a business entity that is obligated to repurchase the purchased securities or equivalent securities from the insurer at a specified price, either within a specified period of time or upon demand; and

(f) Short-term means investments with a remaining term to maturity of ninety days or less.

(2) An insurer may engage in repurchase and reverse repurchase transactions as set forth in this section. The insurer shall enter into a written agreement for transactions entered under this section. Such agreements shall require that each transaction terminate no more than one year from its inception.

(3) Cash received in a transaction under this section shall be invested in accordance with the Insurers Investment Act and in a manner that recognizes the liquidity needs of the transaction or is used by the insurer for its general corporate purposes.

(4) So long as the transaction remains outstanding, the insurer, or its agent or custodian, shall maintain as acceptable collateral received in a transaction under this section, either physically or through the book entry systems of the federal reserve, depository trust company, participants' trust company, or other securities depositories approved by the director:

(a) Possession of the acceptable collateral;

(b) A perfected security interest in the acceptable collateral; or

(c) In the case of a jurisdiction outside of the United States, title to, or rights of a secured creditor to, the acceptable collateral.

(5) The limitations of sections 44-5115 and 44-5137 shall not apply to the business entity counterparty exposure created by transactions under this section. An insurer shall not enter into a transaction under this section if, as a result of and after giving effect to the transaction:

(a) The aggregate amount of securities then sold to or purchased from any one business entity counterparty under this section would exceed five percent of its admitted assets; and in calculating the amount sold to or purchased from a business entity counterparty under repurchase or reverse repurchase transactions, effect may be given to netting provisions under a master written agreement; or

(b) The aggregate amount of all securities then sold to or purchased from all business entities under this section would exceed twenty percent of its admitted assets, and in no event shall the collateral market value of all

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public equity securities that are traded on a United States exchange received in a reverse repurchase transaction exceed more than twenty percent of the total market value of collateral received in reverse repurchase transactions.

(6)(a) In a ~~reverse~~ repurchase transaction, the insurer shall receive acceptable collateral having a market value as of the transaction date at least equal to ninety-five percent of the market value of the securities transferred by the insurer in the transaction as of that date. If at the close of any business day ~~any time~~ the market value of the acceptable collateral is less than ninety-five percent of the market value of the securities so transferred, the business entity counterparty shall be obligated to deliver, by the close of the next business day, additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral then held in connection with the transaction, at least equals ninety-five percent of the market value of the transferred securities.

(b) In a reverse repurchase transaction, the insurer shall receive acceptable collateral having a market value at least equal to (i) one hundred two percent of the purchase price paid by the insurer for collateral excluding public equity securities that are traded on a United States exchange or (ii) one hundred ten percent of the purchase price paid by the insurer for public equity securities that are traded on a United States exchange. If at the close of any business day ~~any time~~ the market value of the acceptable collateral is less than one hundred percent of the purchase price paid by the insurer, the business entity counterparty shall be obligated to provide, by the close of the next business day, additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral then held in connection with the transaction, at least equals the applicable percentage of such collateral as provided in this subdivision ~~one hundred two percent of the purchase price~~. Securities acquired by an insurer in a reverse repurchase transaction shall not be sold in a ~~reverse~~ repurchase transaction, loaned in a securities lending transaction, or otherwise pledged.

Sec. 29. Section 44-5132, Reissue Revised Statutes of Nebraska, is amended to read:

44-5132 (1) An insurer may invest in a security or other instrument, excluding a mutual fund, evidencing an interest in or the right to receive payments from, or payable from distributions on, an asset, a pool of assets, or specifically divisible cash flows which are legally transferred to a special purpose bankruptcy-remote business entity ~~created or existing under the laws of the United States or Canada or any state or province thereof,~~ on the following conditions:

(a) The business entity is established solely for the purpose of acquiring specific types of assets or rights to cash flows, issuing securities and other instruments representing an interest in or right to receive cash flows from those assets or rights, and engaging in activities required to service the assets or rights and any credit enhancement or support features held by the business entity; and

(b) The assets of the business entity consist solely of interest-bearing obligations or other contractual obligations representing the right to receive payment from the cash flows from the assets or rights. However, the existence of credit enhancements, such as letters of credit or guarantees, or other support features, shall not cause a security or other instrument to be an unauthorized investment under this section.

(2) Investments in interest-only securities, other than those with a 1 designation from the Securities Valuation Office, or other instruments shall not be authorized under this section.

(3) Any investment authorized under this section shall have a minimum quality rating as described in subdivision (2) of section 44-5112.

Sec. 30. Section 44-5137, Reissue Revised Statutes of Nebraska, is amended to read:

44-5137 (1) An insurer may invest in foreign securities or other investments (a) issued in, (b) located in, (c) denominated in the currency of, (d) whose ultimate payment amounts of principal or interest are subject to fluctuations in the currency of, or (e) whose obligors are domiciled in countries other than the United States or Canada, which are substantially of the same kinds and classes as those authorized for investment under the Insurers Investment Act. A security or investment shall not be deemed to be foreign if the issuer or a guarantor against which an insurer has a claim for payment has its principal place of business or is domiciled in the United States or Canada or the primary credit source is located in the United States or Canada and, in each case, the insurer has a contractual right to bring an enforcement action in the United States or Canada.

(2) Subject to the limitations in subsection (3) of this section:

(a) An insurer's investments authorized under subsection (1) of this section in any one foreign jurisdiction whose sovereign debt has a 1 designation from the Securities Valuation Office shall not exceed ten percent of the insurer's admitted assets;

(b) An insurer's investments authorized under subsection (1) of this section in any one foreign jurisdiction whose sovereign debt has a 2 or 3 designation from the Securities Valuation Office shall not exceed five percent of the insurer's admitted assets;

(c) An insurer's investments authorized under subsection (1) of this section in any one foreign jurisdiction whose sovereign debt has a 4, 5, or 6 designation from the Securities Valuation Office shall not exceed three percent of the insurer's admitted assets;

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(d) An insurer's investments authorized under subsection (1) of this section denominated in any one foreign currency shall not exceed two percent of the insurer's admitted assets;

(e) An insurer's investments authorized under subsection (1) of this section denominated in foreign currencies, in the aggregate, shall not exceed five percent of the insurer's admitted assets; and

(f) An insurer's investments authorized under subsection (1) of this section shall not be considered denominated in a foreign currency if the acquiring insurer enters into one or more contracts in transactions permitted under section 44-5149 to exchange all payments made on the foreign currency denominated investments for United States currency at a rate which effectively insulates the investment cash flows against future changes in currency exchange rates during the period the contract or contracts are in effect.

(3) An insurer's investments authorized under subsection (1) of this section shall not exceed, in the aggregate, twenty-five ~~twenty~~ percent of its admitted assets.

(4) An insurer which is authorized to do business in a foreign country or which has outstanding insurance, annuity, or reinsurance contracts on lives or risks resident or located in a foreign country may, in addition to the investments authorized by subsection (1) of this section, invest in securities and investments (a) issued in, (b) located in, (c) denominated in the currency of, (d) whose ultimate payment amounts of principal and interest are subject to fluctuations in the currency of, or (e) whose obligors are domiciled in such foreign countries, which are substantially of the same kinds and classes as those authorized for investment under the act.

(5) An insurer's investments authorized under subsection (4) of this section and cash in the currency of such country which is at any time held by such insurer, in the aggregate, shall not exceed the greater of (a) one and one-half times the amount of its reserves and other obligations under such contracts or (b) the amount which such insurer is required by law to invest in such country.

(6) Any investment in debt obligations authorized under this section shall have a minimum quality rating as described in subdivision (2) of section 44-5112, except that an insurer's investment in bonds or notes secured by a mortgage on real estate located outside of the United States or Canada that otherwise complies with section 44-5143 shall not be subject to such minimum quality rating requirements.

(7) An insurer's investments made under this section shall be aggregated with investments of the same kinds and classes made under the Insurers Investment Act except section 44-5153 for purposes of determining compliance with the limitations contained in other sections.

Sec. 31. Section 44-5139, Reissue Revised Statutes of Nebraska, is amended to read:

44-5139 (1) An insurer may invest in shares of a fund registered under the Investment Company Act of 1940, as amended, as a diversified open-end investment company and in shares, interests, or participation certificates in any management type of investment trust, corporate or otherwise, subject to the following restrictions:

(a) The investment restrictions and policies relating to the investment of the assets of the trust and its activities shall be limited to the same kinds, classes, and investment grades as those authorized for investment under the Insurers Investment Act; and

(b) The assets of such investment trust shall not be less than twenty million dollars at the date of purchase.

An insurer's investments authorized under this subsection shall not exceed ten percent of its admitted assets. ~~Shares, interests, or participation certificates in trusts described in this subsection shall also be subject to the overall limitation of subsection (3) of section 44-5141.~~

(2) An insurer may invest in the shares of a fund registered under the Investment Company Act of 1940, as amended, as a diversified open-end investment company when the investment restrictions and policies relating to the investment of the assets of the fund and its activities are limited solely to (a) obligations, (b) commitments to purchase obligations, or (c) assignments of interest in obligations issued or guaranteed by the United States or its agencies or instrumentalities. An insurer's investments authorized under this subsection shall not exceed twenty-five percent of its admitted assets.

Sec. 32. Section 44-5141, Reissue Revised Statutes of Nebraska, is amended to read:

44-5141 (1) An insurer may invest in the common stock or rights to purchase or sell common stock of any corporation which has retained earnings of not less than one million dollars, except that an investment may be made in any corporation having a majority of its operations in this state which has retained earnings of not less than two hundred fifty thousand dollars. The earnings of all predecessor, merged, consolidated, or purchased corporations shall be included through the use of consolidated or pro forma statements.

(2)(a) An insurer may invest in equity interests or rights to purchase or sell equity interests in business entities other than general partnerships unless the general partnership is wholly owned by the insurer.

~~(b)(i) A life insurer's investments authorized under this subsection shall not exceed fifty percent of its policyholders surplus.~~

(b) ~~(ii)~~ A life insurer shall not invest under this subsection in any investment which the life insurer may invest in under section 44-5140 or 44-5144 or subsection (1) of this section.

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~~(3) Except as authorized under the Insurance Holding Company System Act, an insurer shall not invest in more than ten percent of the total equity interests in any business entity other than an insurer.~~

(3) ~~(4)~~ A life insurer's investments authorized under this section shall not exceed the greater of one hundred percent of its policyholders surplus or twenty percent of its admitted assets.

Sec. 33. Section 44-5143, Reissue Revised Statutes of Nebraska, is amended to read:

44-5143 (1) An insurer may invest in bonds or notes secured by a first mortgage on real estate in the United States or Canada if the amount loaned by the insurer, together with any amount secured by an equal security interest, does not exceed eighty percent of the appraised value of the real estate and improvements at the time of making the investment, or if the funds are used for a construction loan, the amount does not exceed eighty percent of the market value of the real estate together with the actual costs of improvements constructed thereon at the time of final funding by the insurer. The limitation in this subsection shall not:

(a) Apply to investments authorized under section 44-5132;

(b) Prohibit an insurer from renewing or extending a loan for the original amount when the value of such real estate has depreciated;

(c) Prohibit an insurer from accepting, as part payment for real estate sold by it, a mortgage thereon for more than eighty percent of the purchase price of such real estate; or

(d) Prohibit an insurer from advancing additional loan funds to protect its real estate security.

(2) An insurer may invest in bonds or notes secured by a first mortgage on leasehold estates in ~~improved~~ real estate located in the United States or Canada if:

(a) Such underlying real estate is unencumbered except by (i) rentals to accrue therefrom to the owner of the real estate or (ii) a fee mortgage, if there is an agreement from the lender secured by the fee mortgage to not terminate or extinguish the leasehold interest as long as the lessee is not in default;

(b) There is no condition or right of reentry or forfeiture under which such lien can be cut off, subordinated, or otherwise disturbed so long as the lessee is not in default;

(c) The amount loaned by the insurer, together with any amount secured by an equal security interest, does not exceed eighty percent of the appraised value of such leasehold with improvements at the time of making the loan, or, if the funds are used for a construction loan, the amount loaned does not exceed eighty percent of the market value of the leasehold estate together with the actual costs of improvements constructed thereon at the time of final funding by the insurer; and

(d) Such mortgage loan will be completely amortized during the unexpired portion of the lease or leasehold estate, or, if a loan has a balloon payment, the mortgage loan amortization period plus the remaining unexpired term of the lease after the maturity date of the loan is at least thirty years, except that any lease or leasehold estate that is convertible by the borrower, as lessee, or the insurer, as lender, into a fee interest for no or minimal consideration at any time during the lease term shall be treated as a fee interest for all purposes under section 44-5143 so long as the insurer's mortgage is secured by such fee interest following such conversion.

(3) Nothing in this section shall prevent any amount invested under this section that exceeds eighty percent of the appraised value of the real estate or leasehold and improvements, as the case may be, from being authorized under section 44-5153.

(4) All buildings and other real estate improvements which constitute a material part of the value of the mortgaged premises, whether estates in fee or leasehold estates or combination thereof, shall be (a)(i) substantially completed before the investment is made or (ii) of a value that is at all times substantial in value in relation to the amount of construction loan funds advanced by the insurer on account of the loan and (b) kept insured against loss or damage by fire or windstorm in a reasonable amount for the benefit of the mortgagee.

(5) Other than investments subject to section 44-5132, if ~~If~~ there are more than four holders of the issue of such bonds or notes described in subsection (1) or (2) of this section, (a) the security of such bonds or notes, as well as all collateral papers including insurance policies executed in connection therewith, shall be made to and held by a trustee, which trustee shall be a solvent bank or trust company having a paid-in capital of not less than two hundred fifty thousand dollars, except in case of a bank or trust company incorporated under the laws of this state, in which case a paid-in capital of not less than one hundred thousand dollars shall be required, and (b) it shall be agreed that, in case of proper notification of default, such trustee, upon request of at least twenty-five percent of the holders of the par amount of the bonds outstanding and proper indemnification, shall proceed to protect the rights of such bondholders under the provisions of the trust indenture. Nothing in this subsection shall be deemed to inhibit the ability of an insurer to rely on the provisions of section 44-5110 with regard to loan participations for loans that meet the requirements of this section.

(6)(a) An insurer may invest in notes or bonds secured by second mortgages or other second liens, including all inclusive or wraparound mortgages or liens, upon real property encumbered only by a first mortgage or lien which

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meets the requirements set forth in this section, subject to either of the following conditions:

(i) The insurer also owns the note or bond secured by the prior first mortgage or lien and the aggregate value of both loans does not exceed the loan to market value ratio requirements of this section; or

(ii) The note or bond is secured by an all-inclusive or wraparound lien or mortgage which conforms to the requirements set forth in subdivision (b) of this subsection, if the aggregate value of the resulting loan does not exceed the loan to market value ratio requirements of this section.

(b) For purposes of this subsection, the terms wraparound and all-inclusive lien or mortgage refer to a loan made by an insurer to a borrower on the security of a mortgage or lien on real property other than property containing a residence of one to four units or on which a residence of one to four units is to be constructed, where such real property is encumbered by a first mortgage or lien and which loan is subject to all of the following requirements:

~~(i) There is no more than one preexisting mortgage or lien on the real property;~~

(i) ~~(ii)~~ The total amount of the obligation of the borrower to the insurer under the loan is not less than the sum of the amount disbursed by the insurer on account of the loan and the outstanding balance of the obligation secured by the preexisting lien or mortgage;

(ii) ~~(iii)~~ The instrument evidencing the lien or mortgage by which the obligation of the borrower to the insurer under the loan is secured, is recorded, and the lien is insured under a policy of title insurance in an amount not less than the total amount of the obligation of the borrower to the insurer under the loan; and

(iii) ~~(iv)~~ The insurer either (A) files for record in the office of the recorder of the county in which the real property is located a duly acknowledged request for a copy of any notice of default or of sale under the preexisting lien or (B) is entitled under applicable law to receive notice of default, sale, or foreclosure of the preexisting lien.

(7)(a) An insurer may invest in mezzanine real estate loans subject to the following conditions:

(i) The terms of the mezzanine loan agreement:

(A) Require that each pledgor abstain from granting additional security interests in the equity interest pledged;

(B) Employ techniques to minimize the likelihood or impact of a bankruptcy filing on the part of the real estate owner or the mezzanine real estate loan borrower; and

(C) Require the real estate owner, or mezzanine real estate loan borrower, to: (I) Hold no assets other than, in the case of the real estate owner, the real property, and in the case of the mezzanine borrower, the equity interest in the real estate owner; (II) not engage in any business other than, in the case of the real estate owner, the ownership and operation of the real estate, and in the case of the mezzanine real estate borrower, holding an ownership interest in the real estate owner; and (III) not incur additional debt, other than limited trade payables, a first mortgage loan, and the mezzanine real estate loan; and

(ii) At the time of the initial investment, the mezzanine real estate loan lender shall corroborate that the sum of the first mortgage and the mezzanine real estate loan does not exceed one hundred percent of the value of the real estate as evidenced by a current appraisal.

(b) The value of an insurer's investments authorized under this subsection shall not exceed three percent of its admitted assets.

(c) For purposes of this subsection, mezzanine real estate loan refers to a loan made by an insurer to a borrower on the security of debt obligation~~, that is not a security,~~ which is secured by a pledge of a direct or indirect equity interest in an entity that owns real estate.

(8) An insurer's investments authorized under this section shall not exceed forty percent of its admitted assets, and an insurer's investments authorized under this section and section 44-5144, in the aggregate, shall not exceed fifty percent of its admitted assets.

Sec. 34. Section 44-5144, Reissue Revised Statutes of Nebraska, is amended to read:

44-5144 (1) An insurer may acquire and hold unencumbered real estate or certificates evidencing participation with other investors, either directly or through partnership or limited liability company interests, or other equity interests, including common and preferred equity investments, in unencumbered real estate if:

(a) The real estate is leased under a lease contract ~~in which the lessee contracts to pay all assessments, taxes, maintenance, and operating costs~~;

(b) The net amount of the annual lease payments to the owner of the real estate is sufficient to amortize the cost of the real estate within the duration of the lease, but in no event for a period of longer than forty years, and pay at least three percent per annum on the unamortized balance of the cost of the real estate; and

(c) The amount invested in any such real estate does not exceed its appraised value.

When the lessee under a lease described in this subsection is the United States or any agency or instrumentality thereof, any state or any county, municipality, district, or other governmental subdivision thereof, or any agency, board, authority, or institution established or maintained under the

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laws of the United States or any state thereof, such lease contract may provide that upon the termination of the term thereof, title to such real estate shall vest in the lessee.

When a lease described in this subsection is ~~When an insurer owns less than the entire real estate leased under a lease described in this subsection, the legal title to the real estate shall be in the name of a trustee which meets the qualifications set out in subsection (5) of section 44-5143~~ under a trust agreement which provides, among other things, that upon proper notification of default under such lease and request to such trustee by an investor or investors representing at least twenty-five percent of the equitable ownership of the real estate and proper indemnification, the trustee shall proceed to protect the rights and interest of the investors owning the equitable title to the real estate. In a governmental lease or leasehold estate under which the insurer owns an interest in a lessee that is convertible by the lessee into a fee interest for no or de minimis consideration at any time during the lease term, it shall be treated as a fee interest for all purposes under this section.

For purposes of this subsection, unencumbered real estate means real estate in which other interests may exist which if enforced would not result in the forfeiture of the insurer's interest.

(2) An insurer may also acquire and hold real estate:

(a) Mortgaged to it in good faith by way of security for a loan previously contracted or for money due;

(b) Conveyed to it in satisfaction of debts previously contracted in the course of its dealings; and

(c) Purchased at sale upon judgments, decrees, or mortgages obtained or made for such debts.

(3) An insurer may invest in real estate required for its home offices or to be otherwise occupied by the insurer or its employees in the transaction of its business and may rent the balance of the space therein. The value of an insurer's investments authorized under this subsection shall not exceed ten percent of its admitted assets.

(4)(a) An insurer with policyholders surplus of at least one million dollars may individually or in conjunction with other investors acquire, own, hold, develop, and improve real estate that is essentially residential or commercial in character, even though subject to an existing mortgage or thereafter mortgaged by the insurer, if such real estate is located in the United States or Canada ~~a city or village or within five miles of the limits thereof~~.

(b) For purposes of this subsection, real estate shall include a leasehold having an unexpired term of at least twenty years, including the term provided by any enforceable option of renewal. The income from such leasehold shall be applied so as to amortize the cost of leasehold and improvements within the lesser of eighty percent of such unexpired term or forty years from acquisition.

(c) An insurer may hold real estate or certification evidencing participation authorized under this subsection with other investors either directly or through a partnership, limited liability company, or other equity interest, including without limitation, common and preferred equity investments.

(d) ~~(c)~~ The value of an insurer's investments authorized under this subsection shall not exceed ten percent of its admitted assets.

(5) An insurer may also acquire such other real estate as may be acquired ancillary to a corporate merger, acquisition, or reorganization of the insurer.

(6) The value of an insurer's investments authorized under subsections (3), (4), and (5) of this section, in the aggregate, shall not exceed fifteen percent of its admitted assets.

(7) For purposes of this section, value shall mean original cost plus any development and improvement costs whenever expended less the unpaid balance of any mortgage and annual depreciation on improvements of not less than two percent.

(8) An insurer's investments authorized under this section and section 44-5143, in the aggregate, shall not exceed fifty percent of its admitted assets.

Sec. 35. Section 44-5149, Reissue Revised Statutes of Nebraska, is amended to read:

44-5149 (1) An insurer may use derivative instruments in hedging transactions if:

(a) The aggregate statement value of options, caps, floors, and warrants not attached to any financial instrument and used in hedging transactions does not exceed the lesser of seven and one-half percent of the insurer's admitted assets or seventy-five percent of the insurer's policyholders surplus;

(b) The aggregate statement value of options, caps, and floors written in hedging transactions does not exceed the lesser of three percent of the insurer's admitted assets or thirty percent of the insurer's policyholders surplus; and

(c) The aggregate potential exposure of collars, swaps, forwards, and futures used in hedging transactions does not exceed the lesser of six and one-half percent of the insurer's admitted assets or sixty-five percent of the insurer's policyholders surplus.

(2)(a) An insurer may use derivative instruments in income-generation transactions by selling:

(i) Covered call options on non-callable fixed income securities or

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callable fixed income securities if the option expires by its terms prior to the end of the non-callable period;

(ii) Covered call options on equity securities if the insurer holds in its portfolio, or can immediately acquire through the exercise of options, warrants, or conversion rights already owned, the equity securities subject to call during the complete term of the call option sold;

(iii) Covered puts on investments that the insurer is permitted to acquire under the Insurers Investment Act if the insurer has escrowed, or entered into a custodian agreement segregating, cash or cash equivalents with a market value equal to the amount of its purchase obligations under that put during the complete term of the put option sold; and

(iv) Covered caps or floors if the insurer holds in its portfolio the investments generating the cash flow to make the required payments under such caps or floors during the complete term that the cap or floor is outstanding.

(b) An insurer may enter into income-generation transactions under this subsection if the aggregate statement value of the fixed income assets that are subject to call or that generate the cash flows for payments under the caps or floors, plus the face value of fixed income securities underlying any derivative instrument subject to call, does not exceed the lesser of ten percent of the insurer's admitted assets or one hundred percent of the insurer's policyholders surplus.

(3) An insurer may use derivative instruments in replication transactions if:

(a) The aggregate statement value of options, caps, floors, and warrants not attached to any financial instrument and used in replication transactions does not exceed the lesser of seven and one-half percent of the insurer's admitted assets or seventy-five percent of the insurer's policyholders surplus;

(b) The aggregate statement value of options, caps, and floors written in replication transactions does not exceed the lesser of three percent of the insurer's admitted assets or thirty percent of the insurer's policyholders surplus;

(c) The aggregate potential exposure of collars, swaps, forwards, and futures used in replication transactions does not exceed the lesser of six and one-half percent of the insurer's admitted assets or sixty-five percent of the insurer's policyholders surplus;

(d) The replication transactions are limited to the replication of investments or instruments otherwise permitted under the Insurers Investment Act; and

(e) The insurer engages in hedging transactions or income generation transactions pursuant to this section and has sufficient experience with derivatives generally such that its performance and procedures reflect that the insurer has been successful in adequately identifying, measuring, monitoring, and limiting exposures associated with such transactions and that the insurer has superior corporate controls over such activities as well as a sufficient number of dedicated staff who are knowledgeable and skilled with these sophisticated financial instruments.

(4) An insurer may purchase or sell one or more derivative instruments to offset<u>, in whole or in part,</u> any derivative instrument previously purchased or sold, as the case may be, without regard to the quantitative limitations of this section, provided that the derivative instrument is an exact offset to the original derivative instrument being offset.

(5) An insurer shall demonstrate to the director upon request the intended hedging, income-generation, or replication characteristics and the ongoing effectiveness of the derivative transaction or combination of the transactions through cash flow testing or other appropriate analysis.

(6) An insurer shall include all counterparty exposure amounts in determining compliance with the limitations in section 44-5115.

(7) The director may approve additional transactions involving the use of derivative instruments pursuant to rules and regulations adopted and promulgated by the director.

<u>(8) For the investment limitations covered in subsections (1), (2), and (3) of this section, aggregate statement value and aggregate potential exposure shall be calculated net of collateral posted or received.</u>

<u>(9)</u> ~~(8)~~ For purposes of this section:

(a) Derivative instrument means an agreement, option, instrument, or a series or combination thereof:

(i) To make or take delivery of, or assume or relinquish, a specified amount of one or more underlying interests or to make a cash settlement in lieu thereof; or

(ii) That has a price, performance, value, or cash flow based primarily upon the actual or expected price, level, performance, value, or cash flow of one or more underlying interests.

Derivative instrument includes all investment instruments or contracts that derive all or almost all of their value from the performance of an underlying market, index, or financial instrument, including, but not limited to, options, warrants, caps, floors, collars, swaps, credit default swaps, swaptions, forwards, and futures. Derivative instrument does not include investments authorized under any other section of the Insurers Investment Act;

(b) Hedging transaction means a derivative transaction which is entered into and maintained to reduce:

(i) The risk of a change in value, yield, price, cash flow, or quantity of assets or liabilities which the insurer has acquired or incurred or anticipates acquiring or incurring; or

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(ii) The currency exchange rate risk or the degree of exposure as to assets or liabilities which an insurer has acquired or incurred or anticipates acquiring or incurring;

(c) Income-generation transaction means a derivative transaction involving the writing of covered call options, covered put options, covered caps, or covered floors that is intended to generate income or enhance return; and

(d) Replication transaction means a derivative transaction or combination of derivative transactions effected either separately or in conjunction with cash market investments included in the insurer's portfolio in order to replicate the investment characteristic of another authorized transaction, investment, or instrument or that may operate as a substitute for cash market investments. A derivative transaction entered into by the insurer as a hedging or income-generation transaction authorized pursuant to this section shall not be considered a replication transaction.

Sec. 36. Section 44-5153, Reissue Revised Statutes of Nebraska, is amended to read:

44-5153 (1)(a)(i) A life insurer may make investments not otherwise authorized under the Insurers Investment Act in an amount, in the aggregate, not exceeding the lesser of five percent of the first five hundred million dollars of its admitted assets plus ten percent of its admitted assets exceeding five hundred million dollars or one hundred percent of its policyholders surplus.

(ii) An insurer other than a life insurer may make investments not otherwise authorized under the act in an amount, in the aggregate, not exceeding the lesser of twenty-five percent of the amount by which its admitted assets exceed its total liabilities, excluding capital, or five percent of the first five hundred million dollars of its admitted assets plus ten percent of its admitted assets exceeding five hundred million dollars.

(b) Investments authorized under this subsection shall not include obligations having 3, 4, 5, and 6 designations from the Securities Valuation Office.

(2)(a) In addition to the provisions of subdivision (1)(a)(i) of this section, a life insurer may make investments not otherwise authorized under the act in an amount not exceeding that portion of its policyholders surplus which is in excess of ten percent of its admitted assets.

(b) In addition to the provisions of subdivisions (1)(a)(ii) and (b) of this section, an insurer other than a life insurer may make investments not otherwise authorized under the act in an amount not exceeding that portion of its policyholders surplus which is in excess of fifty percent of its annual net written premiums as shown by the most recent annual financial statement filed by the insurer pursuant to section 44-322.

(3) Investments authorized under subsection (1) or (2) of this section shall not include assets held by a ceding insurer as security supporting reinsurance arrangements through which credit for reinsurance has been allowed.

(4) ~~(3)~~ Investments authorized under subsection (1) or (2) of this section shall not include insurance agents' balances or amounts advanced to or owing by insurance agents.

(5) ~~(4)~~ The limitations set forth in this section shall be applied at the time the investment in question is made and at the end of each calendar quarter. An insurer's investment, which at the time of its acquisition was authorized only under the provisions of this section but which has subsequently and while held by such insurer become of such character as to be authorized elsewhere under the act, shall not be included in determining the amount of such insurer's investments, in the aggregate, authorized under this section, and investments otherwise authorized under the act at the time of their acquisition shall not be included in making such determination.

(6) ~~(5)~~ Derivative instruments described in subsections (1), (2), and (3) of section 44-5149 shall not be authorized investments under this section.

Sec. 37. Section 44-9004, Reissue Revised Statutes of Nebraska, is amended to read:

44-9004 For purposes of the Risk Management and Own Risk and Solvency Assessment Act:

(1) Director means the Director of Insurance;

(2) Insurance group means those insurers and affiliates included within an insurance holding company system as defined in ~~subdivision (6) of~~ section 44-2121;

(3) Insurer has the same meaning as in section 44-103, except that it does not include agencies, authorities, or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state;

(4) Own risk and solvency assessment means a confidential internal assessment, appropriate to the nature, scale, and complexity of an insurer or insurance group, conducted by the insurer or insurance group, of the material and relevant risks associated with the insurer's or insurance group's current business plan and the sufficiency of capital resources to support those risks;

(5) Own risk and solvency assessment guidance manual means the own risk and solvency assessment guidance manual prescribed by the director which conforms substantially to the Own Risk and Solvency Assessment Guidance Manual developed and adopted by the National Association of Insurance Commissioners. A change in the own risk and solvency assessment guidance manual shall be effective on the January 1 following the calendar year in which the change has been adopted by the director; and

(6) Own risk and solvency assessment summary report means a confidential,

high-level summary of an insurer's or insurance group's own risk and solvency assessment.

Sec. 38. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 24, 39, and 41 of this act become operative on January 1, 2023. The other sections of this act become operative on their effective date.

Sec. 39. Original section 44-4052, Reissue Revised Statutes of Nebraska, is repealed.

Sec. 40. Original sections 44-361, 44-7,102, 44-2121, 44-2132, 44-2138, 44-5103, 44-5105, 44-5120, 44-5120.01, 44-5132, 44-5137, 44-5139, 44-5141, 44-5143, 44-5144, 44-5149, 44-5153, and 44-9004, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 41. The following section is outright repealed: Section 44-4068, Reissue Revised Statutes of Nebraska.