

REFERENCE TITLE: insurance; risk management; solvency assessment

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HB 2188

Introduced by
Representative Fann

AN ACT

AMENDING TITLE 20, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 15;
RELATING TO THE TRANSACTION OF INSURANCE BUSINESS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 20, chapter 2, Arizona Revised Statutes, is amended
3 by adding article 15, to read:

4 Article 15. RISK MANAGEMENT AND SOLVENCY ASSESSMENT

5 20-491. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHER REQUIRES:

7 1. "INSURANCE GROUP" MEANS FOR THE PURPOSES OF CONDUCTING AN ORSA
8 THOSE INSURERS AND AFFILIATES THAT ARE INCLUDED WITHIN AN INSURANCE HOLDING
9 COMPANY SYSTEM AS DEFINED IN SECTION 20-481.

10 2. "INSURER":

11 (a) MEANS EVERY PERSON ENGAGED IN THE BUSINESS OF MAKING CONTRACTS OF
12 INSURANCE.

13 (b) DOES NOT INCLUDE AGENCIES, AUTHORITIES OR INSTRUMENTALITIES OF THE
14 UNITED STATES, ITS POSSESSIONS AND TERRITORIES, THE COMMONWEALTH OF PUERTO
15 RICO, THE DISTRICT OF COLUMBIA OR A STATE OR POLITICAL SUBDIVISION OF A
16 STATE.

17 3. "ORSA GUIDANCE MANUAL" MEANS THE OWN RISK AND SOLVENCY ASSESSMENT
18 GUIDANCE MANUAL THAT IS DEVELOPED AND ADOPTED BY THE NATIONAL ASSOCIATION OF
19 INSURANCE COMMISSIONERS.

20 4. "ORSA SUMMARY REPORT" MEANS A CONFIDENTIAL HIGH-LEVEL ORSA SUMMARY
21 OF AN INSURER OR INSURANCE GROUP.

22 5. "OWN RISK AND SOLVENCY ASSESSMENT" OR "ORSA" MEANS A CONFIDENTIAL
23 INTERNAL ASSESSMENT, APPROPRIATE TO THE NATURE, SCALE AND COMPLEXITY OF AN
24 INSURER OR INSURANCE GROUP, THAT IS CONDUCTED BY THAT INSURER OR INSURANCE
25 GROUP OF THE MATERIAL AND RELEVANT RISKS ASSOCIATED WITH THE INSURER'S OR
26 INSURANCE GROUP'S CURRENT BUSINESS PLAN AND THE SUFFICIENCY OF CAPITAL
27 RESOURCES TO SUPPORT THOSE RISKS.

28 20-491.01. Risk management framework required

29 AN INSURER SHALL MAINTAIN A RISK MANAGEMENT FRAMEWORK TO ASSIST THE
30 INSURER WITH IDENTIFYING, ASSESSING, MONITORING, MANAGING AND REPORTING ON
31 ITS MATERIAL AND RELEVANT RISKS. THIS REQUIREMENT IS SATISFIED IF THE
32 INSURANCE GROUP OF WHICH THE INSURER IS A MEMBER MAINTAINS A RISK MANAGEMENT
33 FRAMEWORK APPLICABLE TO THE OPERATIONS OF THE INSURER.

34 20-491.02. ORSA requirement

35 SUBJECT TO SECTION 20-491.04, AN INSURER OR THE INSURANCE GROUP OF
36 WHICH THE INSURER IS A MEMBER SHALL REGULARLY CONDUCT AN ORSA CONSISTENT WITH
37 A PROCESS COMPARABLE TO THE ORSA GUIDANCE MANUAL. THE ORSA SHALL BE CONDUCTED
38 ANNUALLY BUT ALSO AT ANY TIME WHEN THERE ARE SIGNIFICANT CHANGES TO THE RISK
39 PROFILE OF THE INSURER OR THE INSURANCE GROUP OF WHICH THE INSURER IS A
40 MEMBER.

41 20-491.03. Submission of ORSA summary report; requirements

42 A. ON THE DIRECTOR'S REQUEST, AND NOT MORE THAN ONCE EACH YEAR, AN
43 INSURER SHALL SUBMIT TO THE DIRECTOR AN ORSA SUMMARY REPORT, OR ANY
44 COMBINATION OF REPORTS THAT TOGETHER CONTAIN THE INFORMATION DESCRIBED IN THE
45 ORSA GUIDANCE MANUAL, APPLICABLE TO THE INSURER OR THE INSURANCE GROUP OF

1 WHICH THE INSURER IS A MEMBER. NOTWITHSTANDING ANY REQUEST FROM THE
2 DIRECTOR, IF THE INSURER IS A MEMBER OF AN INSURANCE GROUP, THE INSURER SHALL
3 SUBMIT THE REPORT OR SET OF REPORTS REQUIRED BY THIS SUBSECTION IF THE
4 DIRECTOR IS THE LEAD STATE DIRECTOR OR COMMISSIONER OF THE INSURANCE GROUP AS
5 DETERMINED BY THE PROCEDURES WITHIN THE FINANCIAL ANALYSIS HANDBOOK ADOPTED
6 BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

7 B. THE REPORT SHALL INCLUDE A SIGNATURE OF THE INSURER OR INSURANCE
8 GROUP'S CHIEF RISK OFFICER OR OTHER EXECUTIVE HAVING RESPONSIBILITY FOR THE
9 OVERSIGHT OF THE INSURER'S ENTERPRISE RISK MANAGEMENT PROCESS ATTESTING TO
10 THE BEST OF THAT PERSON'S BELIEF AND KNOWLEDGE THAT THE INSURER APPLIES THE
11 ENTERPRISE RISK MANAGEMENT PROCESS DESCRIBED IN THE ORSA SUMMARY REPORT AND
12 THAT A COPY OF THE REPORT HAS BEEN PROVIDED TO THE INSURER'S BOARD OF
13 DIRECTORS OR THE APPROPRIATE GOVERNING COMMITTEE.

14 C. AN INSURER MAY COMPLY WITH SUBSECTION A OF THIS SECTION BY
15 PROVIDING THE MOST RECENT AND SUBSTANTIALLY SIMILAR REPORT OR REPORTS
16 PROVIDED BY THE INSURER OR ANOTHER MEMBER OF AN INSURANCE GROUP OF WHICH THE
17 INSURER IS A MEMBER TO THE DIRECTOR OR COMMISSIONER OF ANOTHER STATE OR TO A
18 SUPERVISOR OR REGULATOR OF A FOREIGN JURISDICTION IF THAT REPORT PROVIDES
19 INFORMATION THAT IS COMPARABLE TO THE INFORMATION DESCRIBED IN THE ORSA
20 GUIDANCE MANUAL. ANY SUCH REPORT IN A LANGUAGE OTHER THAN ENGLISH SHALL BE
21 ACCOMPANIED BY A TRANSLATION OF THAT REPORT INTO THE ENGLISH LANGUAGE.

22 20-491.04. Exemptions from article requirements; reports

23 A. AN INSURER IS EXEMPT FROM THE REQUIREMENTS OF THIS ARTICLE IF BOTH
24 OF THE FOLLOWING APPLY:

25 1. THE INSURER HAS ANNUAL DIRECT WRITTEN AND UNAFFILIATED ASSUMED
26 PREMIUM INCLUDING INTERNATIONAL DIRECT AND ASSUMED PREMIUM, BUT EXCLUDING
27 PREMIUM REINSURED WITH THE FEDERAL CROP INSURANCE CORPORATION AND FEDERAL
28 FLOOD PROGRAM, LESS THAN FIVE HUNDRED MILLION DOLLARS.

29 2. THE INSURANCE GROUP OF WHICH THE INSURER IS A MEMBER HAS ANNUAL
30 DIRECT WRITTEN AND UNAFFILIATED ASSUMED PREMIUM INCLUDING INTERNATIONAL
31 DIRECT AND ASSUMED PREMIUM, BUT EXCLUDING PREMIUM REINSURED WITH THE FEDERAL
32 CROP INSURANCE CORPORATION AND FEDERAL FLOOD PROGRAM, LESS THAN ONE BILLION
33 DOLLARS.

34 B. IF AN INSURER QUALIFIES FOR EXEMPTION PURSUANT TO SUBSECTION A,
35 PARAGRAPH 1 OF THIS SECTION BUT THE INSURANCE GROUP OF WHICH THE INSURER IS A
36 MEMBER DOES NOT QUALIFY FOR EXEMPTION PURSUANT TO SUBSECTION A, PARAGRAPH 2
37 OF THIS SECTION, THE ORSA SUMMARY REPORT THAT MAY BE REQUIRED PURSUANT TO
38 SECTION 20-491.03 SHALL INCLUDE EVERY INSURER WITHIN THE INSURANCE GROUP.
39 THIS REQUIREMENT IS SATISFIED BY THE SUBMISSION OF MORE THAN ONE ORSA SUMMARY
40 REPORT FOR ANY COMBINATION OF INSURERS, PROVIDED ANY COMBINATION OF REPORTS
41 INCLUDES EVERY INSURER WITHIN THE INSURANCE GROUP.

42 C. IF AN INSURER DOES NOT QUALIFY FOR EXEMPTION PURSUANT TO SUBSECTION
43 A, PARAGRAPH 1 OF THIS SECTION BUT THE INSURANCE GROUP OF WHICH THE INSURER
44 IS A MEMBER DOES QUALIFY FOR EXEMPTION PURSUANT TO SUBSECTION A, PARAGRAPH 2

1 OF THIS SECTION, THE ONLY ORSA SUMMARY REPORT THAT MAY BE REQUIRED PURSUANT
2 TO SECTION 20-491.03 IS THE REPORT APPLICABLE TO THAT INSURER.

3 D. IF AN INSURER DOES NOT QUALIFY FOR EXEMPTION PURSUANT TO SUBSECTION
4 A, PARAGRAPH 1 OF THIS SECTION, THE INSURER MAY APPLY TO THE DIRECTOR FOR A
5 WAIVER FROM THE REQUIREMENTS OF THIS ARTICLE BASED ON UNIQUE CIRCUMSTANCES.
6 IN DECIDING WHETHER TO GRANT THE INSURER'S REQUEST FOR WAIVER, THE DIRECTOR
7 MAY CONSIDER THE TYPE AND VOLUME OF BUSINESS WRITTEN, OWNERSHIP AND
8 ORGANIZATIONAL STRUCTURE AND ANY OTHER FACTOR THE DIRECTOR CONSIDERS RELEVANT
9 TO THE INSURER OR INSURANCE GROUP OF WHICH THE INSURER IS A MEMBER. IF THE
10 INSURER IS PART OF AN INSURANCE GROUP WITH INSURERS DOMICILED IN MORE THAN
11 ONE STATE, THE DIRECTOR SHALL COORDINATE WITH THE LEAD STATE DIRECTOR OR
12 COMMISSIONER OF INSURANCE AND WITH THE OTHER DOMICILIARY DIRECTORS OR
13 COMMISSIONERS IN CONSIDERING WHETHER TO GRANT THE INSURER'S REQUEST FOR A
14 WAIVER.

15 E. NOTWITHSTANDING THE EXEMPTIONS STATED IN THIS SECTION, THE DIRECTOR
16 MAY REQUIRE THAT AN INSURER MAINTAIN A RISK MANAGEMENT FRAMEWORK, CONDUCT AN
17 ORSA AND FILE AN ORSA SUMMARY REPORT:

18 1. BASED ON UNIQUE CIRCUMSTANCES INCLUDING THE TYPE AND VOLUME OF
19 BUSINESS WRITTEN, OWNERSHIP AND ORGANIZATIONAL STRUCTURE, FEDERAL AGENCY
20 REQUESTS AND INTERNATIONAL SUPERVISOR REQUESTS.

21 2. IF THE INSURER HAS RISK-BASED CAPITAL FOR A COMPANY ACTION LEVEL
22 EVENT AS DEFINED IN SECTION 20-488, MEETS ONE OR MORE OF THE STANDARDS OF AN
23 INSURER DEEMED TO BE IN HAZARDOUS FINANCIAL CONDITION AS PRESCRIBED IN
24 SECTION 20-220.01 OR OTHERWISE EXHIBITS QUALITIES OF A TROUBLED INSURER AS
25 DETERMINED BY THE DIRECTOR.

26 F. IF AN INSURER THAT QUALIFIES FOR EXEMPTION PURSUANT TO SUBSECTION
27 A, PARAGRAPH 1 OF THIS SECTION SUBSEQUENTLY NO LONGER QUALIFIES FOR THAT
28 EXEMPTION DUE TO CHANGES IN PREMIUM REFLECTED IN THE INSURER'S MOST RECENT
29 ANNUAL STATEMENT OR IN THE MOST RECENT ANNUAL STATEMENTS OF THE INSURERS
30 WITHIN THE INSURANCE GROUP OF WHICH THE INSURER IS A MEMBER, THE INSURER HAS
31 ONE YEAR AFTER THE YEAR THE THRESHOLD IS EXCEEDED TO COMPLY WITH THE
32 REQUIREMENT OF THIS ARTICLE.

33 20-491.05. ORSA summary report

34 A. SUBJECT TO THE REQUIREMENTS OF SUBSECTION B OF THIS SECTION, THE
35 ORSA SUMMARY REPORT SHALL BE PREPARED CONSISTENT WITH THE ORSA GUIDANCE
36 MANUAL. DOCUMENTATION AND SUPPORTING INFORMATION SHALL BE MAINTAINED AND
37 MADE AVAILABLE ON EXAMINATION OR ON THE REQUEST OF THE DIRECTOR.

38 B. THE REVIEW OF THE ORSA SUMMARY REPORT AND ANY ADDITIONAL REQUESTS
39 FOR INFORMATION SHALL BE MADE USING SIMILAR PROCEDURES CURRENTLY USED IN THE
40 ANALYSIS AND EXAMINATION OF MULTISTATE OR GLOBAL INSURERS AND INSURANCE
41 GROUPS.

42 20-491.06. Confidentiality of ORSA documents; allowable uses

43 A. DOCUMENTS, MATERIALS OR OTHER INFORMATION, INCLUDING THE ORSA
44 SUMMARY REPORT, THAT IS IN THE DIRECTOR'S POSSESSION OR CONTROL AND THAT IS
45 OBTAINED BY, CREATED BY OR DISCLOSED TO THE DIRECTOR OR ANY OTHER PERSON

1 UNDER THIS ARTICLE, IS RECOGNIZED BY THIS STATE AS BEING PROPRIETARY AND
2 CONTAINING TRADE SECRETS. ALL SUCH DOCUMENTS, MATERIALS OR OTHER INFORMATION
3 IS CONFIDENTIAL BY LAW AND PRIVILEGED, IS NOT CONSIDERED A PUBLIC RECORD
4 PURSUANT TO TITLE 39, CHAPTER 1, IS NOT SUBJECT TO SUBPOENA AND IS NOT
5 SUBJECT TO DISCOVERY OR ADMISSIBLE IN EVIDENCE IN ANY PRIVATE CIVIL ACTION.
6 THE DIRECTOR IS AUTHORIZED TO USE THE DOCUMENTS, MATERIALS OR OTHER
7 INFORMATION IN THE FURTHERANCE OF ANY REGULATORY OR LEGAL ACTION BROUGHT AS A
8 PART OF THE DIRECTOR'S OFFICIAL DUTIES. THE DIRECTOR MAY NOT OTHERWISE MAKE
9 THE DOCUMENTS, MATERIALS OR OTHER INFORMATION PUBLIC WITHOUT THE PRIOR
10 WRITTEN CONSENT OF THE INSURER.

11 B. NEITHER THE DIRECTOR NOR ANY PERSON WHO RECEIVED DOCUMENTS,
12 MATERIALS OR OTHER ORSA-RELATED INFORMATION, THROUGH EXAMINATION OR
13 OTHERWISE, WHILE ACTING UNDER THE AUTHORITY OF THE DIRECTOR OR WITH WHOM SUCH
14 DOCUMENTS, MATERIALS OR OTHER INFORMATION IS SHARED PURSUANT TO THIS ARTICLE,
15 IS ALLOWED OR REQUIRED TO TESTIFY IN ANY PRIVATE CIVIL ACTION CONCERNING ANY
16 CONFIDENTIAL DOCUMENTS, MATERIALS OR OTHER INFORMATION THAT IS SUBJECT TO
17 SUBSECTION A OF THIS SECTION.

18 C. IN ORDER TO ASSIST IN THE PERFORMANCE OF THE DIRECTOR'S REGULATORY
19 DUTIES, THE DIRECTOR:

20 1. MAY SHARE DOCUMENTS, MATERIALS OR OTHER ORSA-RELATED INFORMATION,
21 INCLUDING THE CONFIDENTIAL AND PRIVILEGED DOCUMENTS, MATERIALS OR OTHER
22 INFORMATION SUBJECT TO SUBSECTION A OF THIS SECTION, INCLUDING PROPRIETARY
23 AND TRADE SECRET DOCUMENTS AND MATERIALS, WITH OTHER STATE, FEDERAL AND
24 INTERNATIONAL REGULATORY AGENCIES, INCLUDING MEMBERS OF ANY SUPERVISORY
25 COLLEGE AS DEFINED IN SECTION 20-481, WITH THE NATIONAL ASSOCIATION OF
26 INSURANCE COMMISSIONERS AND WITH ANY THIRD-PARTY CONSULTANTS DESIGNATED BY
27 THE DIRECTOR, IF THE RECIPIENT AGREES IN WRITING TO MAINTAIN THE
28 CONFIDENTIALITY AND PRIVILEGED STATUS OF THE ORSA-RELATED DOCUMENTS,
29 MATERIALS OR OTHER INFORMATION AND HAS VERIFIED IN WRITING THE LEGAL
30 AUTHORITY TO MAINTAIN CONFIDENTIALITY.

31 2. MAY RECEIVE DOCUMENTS, MATERIALS OR ORSA-RELATED INFORMATION,
32 INCLUDING OTHERWISE CONFIDENTIAL AND PRIVILEGED DOCUMENTS, MATERIALS OR OTHER
33 INFORMATION, INCLUDING PROPRIETARY AND TRADE SECRET INFORMATION OR DOCUMENTS,
34 FROM REGULATORY OFFICIALS OF OTHER FOREIGN OR DOMESTIC JURISDICTIONS,
35 INCLUDING MEMBERS OF ANY SUPERVISORY COLLEGE AS DEFINED IN SECTION 20-481,
36 AND FROM THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS AND SHALL
37 MAINTAIN AS CONFIDENTIAL OR PRIVILEGED ANY DOCUMENT, MATERIAL OR OTHER
38 INFORMATION RECEIVED WITH NOTICE OR THE UNDERSTANDING THAT IT IS CONFIDENTIAL
39 OR PRIVILEGED UNDER THE LAWS OF THE JURISDICTION THAT IS THE SOURCE OF THE
40 DOCUMENT, MATERIAL OR OTHER INFORMATION.

41 3. SHALL ENTER INTO WRITTEN AGREEMENTS WITH THE NATIONAL ASSOCIATION
42 OF INSURANCE COMMISSIONERS OR A THIRD-PARTY CONSULTANT GOVERNING SHARING AND
43 USE OF INFORMATION PROVIDED PURSUANT TO THIS ARTICLE, CONSISTENT WITH THIS
44 SUBSECTION, THAT DO ALL OF THE FOLLOWING:

1 (a) SPECIFY PROCEDURES AND PROTOCOLS REGARDING THE CONFIDENTIALITY AND
2 SECURITY OF INFORMATION SHARED WITH THE NATIONAL ASSOCIATION OF INSURANCE
3 COMMISSIONERS OR A THIRD-PARTY CONSULTANT PURSUANT TO THIS ARTICLE, INCLUDING
4 PROCEDURES AND PROTOCOLS FOR SHARING BY THE NATIONAL ASSOCIATION OF INSURANCE
5 COMMISSIONERS WITH OTHER STATE REGULATORS FROM STATES IN WHICH THE INSURANCE
6 GROUP HAS DOMICILED INSURERS. THE AGREEMENT SHALL PROVIDE THAT THE RECIPIENT
7 AGREES IN WRITING TO MAINTAIN THE CONFIDENTIALITY AND PRIVILEGED STATUS OF
8 THE ORSA-RELATED DOCUMENTS, MATERIALS OR OTHER INFORMATION AND HAS VERIFIED
9 IN WRITING THE LEGAL AUTHORITY TO MAINTAIN CONFIDENTIALITY.

10 (b) SPECIFY THAT OWNERSHIP OF INFORMATION SHARED WITH THE NATIONAL
11 ASSOCIATION OF INSURANCE COMMISSIONERS OR A THIRD-PARTY CONSULTANT PURSUANT
12 TO THIS ARTICLE REMAINS WITH THE DIRECTOR AND THAT THE NATIONAL ASSOCIATION
13 OF INSURANCE COMMISSIONERS' OR A THIRD-PARTY CONSULTANT'S USE OF THE
14 INFORMATION IS SUBJECT TO THE DIRECTION OF THE DIRECTOR.

15 (c) PROHIBIT THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS OR A
16 THIRD-PARTY CONSULTANT FROM STORING THE INFORMATION SHARED PURSUANT TO THIS
17 ARTICLE IN A PERMANENT DATABASE AFTER THE UNDERLYING ANALYSIS IS COMPLETED.

18 (d) REQUIRE PROMPT NOTICE TO BE GIVEN TO AN INSURER WHOSE CONFIDENTIAL
19 INFORMATION IN THE POSSESSION OF THE NATIONAL ASSOCIATION OF INSURANCE
20 COMMISSIONERS OR A THIRD-PARTY CONSULTANT PURSUANT TO THIS ARTICLE IS SUBJECT
21 TO A REQUEST OR SUBPOENA TO THE NATIONAL ASSOCIATION OF INSURANCE
22 COMMISSIONERS OR A THIRD-PARTY CONSULTANT FOR DISCLOSURE OR PRODUCTION.

23 (e) REQUIRE THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS OR A
24 THIRD-PARTY CONSULTANT TO CONSENT TO INTERVENTION BY AN INSURER IN ANY
25 JUDICIAL OR ADMINISTRATIVE ACTION IN WHICH THE NATIONAL ASSOCIATION OF
26 INSURANCE COMMISSIONERS OR A THIRD-PARTY CONSULTANT MAY BE REQUIRED TO
27 DISCLOSE CONFIDENTIAL INFORMATION ABOUT THE INSURER SHARED WITH THE NATIONAL
28 ASSOCIATION OF INSURANCE COMMISSIONERS OR A THIRD-PARTY CONSULTANT PURSUANT
29 TO THIS ARTICLE.

30 (f) IN THE CASE OF AN AGREEMENT INVOLVING A THIRD-PARTY CONSULTANT,
31 PROVIDE THE INSURER'S WRITTEN CONSENT.

32 D. THE SHARING OF INFORMATION BY THE DIRECTOR PURSUANT TO THIS ARTICLE
33 DOES NOT CONSTITUTE A DELEGATION OF REGULATORY AUTHORITY OR RULEMAKING, AND
34 THE DIRECTOR IS SOLELY RESPONSIBLE FOR THE ADMINISTRATION, EXECUTION AND
35 ENFORCEMENT OF THIS ARTICLE.

36 E. A WAIVER OF ANY APPLICABLE PRIVILEGE OR CLAIM OF CONFIDENTIALITY IN
37 THE DOCUMENTS, MATERIALS OR OTHER INFORMATION DOES NOT OCCUR AS A RESULT OF
38 DISCLOSURE TO THE DIRECTOR UNDER THIS SECTION OR AS A RESULT OF SHARING AS
39 AUTHORIZED IN THIS ARTICLE.

40 F. DOCUMENTS, MATERIALS OR OTHER INFORMATION IN THE POSSESSION OR
41 CONTROL OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS OR A
42 THIRD-PARTY CONSULTANT PURSUANT TO THIS ARTICLE ARE CONFIDENTIAL BY LAW AND
43 PRIVILEGED, ARE NOT CONSIDERED PUBLIC RECORDS PURSUANT TO TITLE 39, CHAPTER
44 1, ARE NOT SUBJECT TO SUBPOENA AND ARE NOT SUBJECT TO DISCOVERY OR ADMISSIBLE
45 IN EVIDENCE IN ANY PRIVATE CIVIL ACTION.

1 20-491.07. Civil penalties
2 AN INSURER WHO FAILS TO FILE WITHOUT JUST CAUSE THE ORSA SUMMARY REPORT
3 REQUIRED BY THIS ARTICLE AFTER NOTICE AND A HEARING SHALL PAY A PENALTY OF
4 FIVE HUNDRED DOLLARS FOR EACH DAY'S DELAY IN FILING, NOT TO EXCEED ONE
5 HUNDRED THOUSAND DOLLARS. THE DIRECTOR MAY REDUCE THE PENALTY IF THE INSURER
6 DEMONSTRATES THAT THE IMPOSITION OF THE PENALTY WOULD CONSTITUTE A FINANCIAL
7 HARDSHIP TO THE INSURER. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS
8 35-146 AND 35-147, THE PENALTIES COLLECTED IN THE STATE GENERAL FUND.
9 Sec. 2. Severability
10 If a provision of this act or its application to any person or
11 circumstance is held invalid, the invalidity does not affect other provisions
12 or applications of the act that can be given effect without the invalid
13 provision or application, and to this end the provisions of this act are
14 severable.
15 Sec. 3. Effective date
16 This act is effective from and after December 31, 2016.