

# ONE HUNDRED THIRD LEGISLATURE - SECOND SESSION - 2014

## COMMITTEE STATEMENT

### LB700

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**Hearing Date:** Tuesday January 28, 2014  
**Committee On:** Banking, Commerce and Insurance  
**Introducer:** Schumacher  
**One Liner:** Adopt the Risk Management and Own Risk and Solvency Assessment Act

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**Roll Call Vote - Final Committee Action:**

Advanced to General File

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**Vote Results:**

**Aye:** 8 Senators Campbell, Carlson, Christensen, Garrett, Gloor, Howard, Pirsch, Schumacher

**Nay:**

**Absent:**

**Present Not Voting:**

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**Proponents:**

Senator Paul Schumacher  
Bruce Ramage  
Tad Fraizer  
Janis McKenzie  
Thomas Mays

**Representing:**

Introducer  
NE Department of Insurance  
American Insurance Association  
NE Insurance Federation  
Pacific Life Insurance Co.

**Opponents:**

**Representing:**

**Neutral:**

**Representing:**

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**Summary of purpose and/or changes:**

LB700 (Schumacher), introduced at the request of the Director of Insurance, would adopt the Risk Management and Own Risk and Solvency Assessment Act and adopt various sections requiring certain domestic insurers to perform own risk solvency assessments to be provided to the Director of Insurance on request. The bill would provide, section by section, as follows:

**Risk Management and Own Risk and Solvency Assessment Act**

Section 1 would adopt a new section to specify that sections 1 to 11 of this act would be known as the Risk Management and Own Risk and Solvency Assessment Act ("act").

Section 2 would adopt a new section to declare that the purpose of the act is to provide requirements for maintaining a risk management framework and completing an own risk and solvency assessment summary report with the Director of Insurance and provide that the requirements apply to all non-exempt domestic insurers.

Section 3 would adopt a new section to declare that the own risk and solvency assessment summary reports will include confidential information and that it is the intent of the Legislature to make the reports confidential documents subject to sharing only as provided in the act, only to assist the director in performance of his or her duties and not subject to public disclosure.

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Section 4 would adopt a new section to define terms for the purposes of the act. "Insurer" and "insurance group" would be defined as in the sections 44-103 and 44-2121 respectively. "Own risk and solvency assessment" would be defined as a confidential internal assessment conducted by the insurer or insurance group of the risks associated with the current business plan and sufficiency of capital resources. "Own risk solvency assessment guidance manual" would be defined as the manual prescribed by the director conforming substantially to the manual developed and adopted by the National Association of Insurance Commissioners and would further define the effective date to changes to the manual. "Own risk and solvency assessment summary report" would be defined as a confidential high level summary of the own risk and solvency assessment.

Section 5 would adopt a new section to require an insurer or insurance group to maintain a risk management framework to assist with material and relevant risks.

Section 6 would adopt a new section to require an insurer or insurance group to, no less than annually or in the event of significant changes to the risk profile, conduct an own risk and solvency assessment consistent with a process comparable to that in the manual.

Section 7 would adopt a new section to require submission of an own risk and solvency assessment summary report upon request of the director. The report would be required to include a signature of the chief risk officer. An insurer could comply by providing the most recent report to the insurance regulator of another state or foreign jurisdiction. The bill would specify that the first filing of the report would be in 2015.

Section 8 would adopt a new section to exempt an insurer from the requirements of the act if it has annual direct written and unaffiliated assumed premium of less than five hundred million dollars and an insurance group if it has annual direct written and unaffiliated assumed premium of less than one billion dollars. If the insurer is exempt, but the insurance group is not, the report would be required to include every insurer within the group. If the insurance group is exempt and the insurer is not, the only filing required would be that applicable to the individual insurer. The bill would authorize the director to grant a waiver and adopt factors for the director to consider when doing so. The bill would allow the director to require maintenance of a risk management framework and submission of a report even if an exemption applies, and specifically, if an insurer has a risk based capital company action level event, is in hazardous financial condition or is a troubled insurer.

Section 9 would adopt a new section to require an own risk and solvency assessment summary to be prepared consistent with the manual, and require review under a procedure similar to that used in the analysis and examination of multistate or global insurers and insurance groups.

Section 10 would adopt a new section to specify that information obtained under the act is recognized as being proprietary and to contain trade secrets. The bill would deem such information confidential, privileged, not a public record, and not subject to subpoena, discovery, or admissible in evidence in a private civil action. The bill would grant the director authority to use the documents as part of the director's official duties. The bill would prohibit disclosure otherwise and prohibits testimony in private civil actions. The bill would authorize sharing information with other state, federal, and international financial regulatory agencies and with the National Association of Insurance Commissioners (NAIC) and third party consultants if the recipient agrees in writing to maintain confidentiality. The bill would authorize the director to receive information from other state, federal, and international regulatory agencies and from the NAIC on a confidential basis. The bill would require the director to enter written agreements with the NAIC or third party consultants governing the sharing and use of such information and specifying that the ownership of information remains with the director, and prohibiting storage of information in a permanent database after completion of analysis.

Section 11 would adopt a new section to impose a penalty of two hundred dollars per day not to exceed ten thousand dollars if an insurer fails to file an own risk solvency assessment summary report and provide standards for the director to consider in the reduction of the penalty.

Section 12 would specify that the act becomes operative on January 1, 2015.

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Mike Gloor, Chairperson