

By: Sheets

H.B. No. 2926

A BILL TO BE ENTITLED

AN ACT

relating to the standard valuation for life insurance, accident and health insurance, and annuities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 425.052, Insurance Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) In this subchapter:

(1) "Accident and health insurance" means contracts that incorporate morbidity risk and provide protection against economic loss resulting from accident, sickness, or medical conditions and as may be specified in the valuation manual.

(2) "Appointed actuary" means a qualified actuary who is appointed in accordance with the valuation manual to prepare the actuarial opinion required by Section 425.054.

(3) "Company" means an entity that has written, issued, or reinsured life insurance contracts, accident and health insurance contracts, or deposit-type contracts in this state and:

(A) has at least one such policy in force or on claim; or

(B) is required to hold a certificate of authority to write life insurance, accident and health insurance, or deposit-type contracts in this state.

(4) "Deposit-type contract" means a contract that does

1 not incorporate mortality or morbidity risk and as may be specified
2 in the valuation manual.

3 (5) "Life insurance" means contracts that incorporate
4 mortality risk, including annuity and pure endowment contracts, and
5 as may be specified in the valuation manual.

6 (6) "Policyholder behavior" means any action a
7 policyholder, a contract holder, or any other person with the right
8 to elect options, such as a certificate holder, may take under a
9 policy or contract subject to this subchapter, including lapse,
10 withdrawal, transfer, deposit, premium payment, loan,
11 annuitization, or benefit elections prescribed by the policy or
12 contract but excluding events of mortality or morbidity that result
13 in benefits prescribed in their essential aspects by the terms of
14 the policy or contract.

15 (7) "Qualified actuary" means an individual who is
16 qualified to sign the applicable statement of actuarial opinion in
17 accordance with the American Academy of Actuaries' qualification
18 standards for actuaries signing such statements and who meets the
19 requirements specified in the valuation manual.

20 (8) "Reserves" [~~,"reserves"~~] means reserve
21 liabilities.

22 (9) "Tail risk" means a risk that occurs either where
23 the frequency of low probability events is higher than expected
24 under a normal probability distribution or where there are observed
25 events of very significant size or magnitude.

26 (10) "Valuation manual" means the manual of valuation
27 instructions adopted by the commissioner by rule.

1 (c) The definitions under Subsection (a) of "accident and
2 health insurance," "appointed actuary," "company," "deposit-type
3 contract," "life insurance," "policyholder behavior," "qualified
4 actuary," and "tail risk" apply only on and after the operative date
5 of the valuation manual.

6 SECTION 2. The heading to Section 425.053, Insurance Code,
7 is amended to read as follows:

8 Sec. 425.053. ANNUAL VALUATION OF RESERVES BEFORE OPERATIVE
9 DATE OF VALUATION MANUAL.

10 SECTION 3. Section 425.053, Insurance Code, is amended by
11 amending Subsection (a) and adding Subsections (d) and (e) to read
12 as follows:

13 (a) The department shall annually value or cause to be
14 ~~[have]~~ valued the reserves for all outstanding life insurance
15 policies and annuity and pure endowment contracts of each life
16 insurance company engaged in business in this state issued on or
17 after June 10, 1963, and before the operative date of the valuation
18 manual. The department may certify the amount of those reserves,
19 specifying the mortality table or tables, rate or rates of
20 interest, and methods, including the net level premium method or
21 another method, used in computing those reserves.

22 (d) Except as otherwise provided by this subchapter,
23 policies and contracts issued after the operative date of the
24 valuation manual are governed by Section 425.0535.

25 (e) The minimum standards for the valuation of policies and
26 contracts issued on and after June 10, 1963, and before the
27 operative date of the valuation manual are as provided by the law in

1 effect immediately before that date, including the minimum
2 standards provided by Sections 425.058 through 425.071 as
3 applicable. Sections 425.072 through 425.077 do not apply to a
4 policy or contract described by this subsection.

5 SECTION 4. Subchapter B, Chapter 425, Insurance Code, is
6 amended by adding Section 425.0535 to read as follows:

7 Sec. 425.0535. POLICIES AND CONTRACTS ISSUED ON OR AFTER
8 OPERATIVE DATE OF VALUATION MANUAL. (a) On or after the operative
9 date of the valuation manual, the commissioner shall annually
10 value, or cause to be valued, the reserves for all outstanding life
11 insurance contracts, annuity and pure endowment contracts,
12 accident and health contracts, and deposit-type contracts of each
13 company issued in this state as provided by this section.

14 (b) In lieu of the valuation of the reserves required of a
15 foreign or alien company, the commissioner may accept a valuation
16 made, or caused to be made, by the insurance supervisory official of
17 another state if the valuation complies with the minimum standard
18 provided by this subchapter.

19 (c) Sections 425.072 through 425.077 apply to all policies
20 and contracts issued on or after the operative date of the valuation
21 manual.

22 SECTION 5. The heading to Section 425.054, Insurance Code,
23 is amended to read as follows:

24 Sec. 425.054. ACTUARIAL OPINION OF RESERVES BEFORE
25 OPERATIVE DATE OF VALUATION MANUAL ~~[REQUIRED]~~.

26 SECTION 6. Section 425.054, Insurance Code, is amended by
27 amending Subsection (a) and adding Subsections (a-1), (j), (k),

(l), (m), (n), (o), (p), (q), and (r) to read as follows:

(a) This section applies only to an actuarial opinion of reserves required before the operative date of the valuation manual.

(a-1) For purposes of this section, "qualified actuary" means:

(1) a qualified actuary, as that term is defined by Section 802.002; or

(2) a person who, before September 1, 1993, satisfied the requirements of the former State Board of Insurance to submit an opinion under former Section 2A(a)(1), Article 3.28.

(j) Except as provided by Subsections (l), (n), (o), and (p), any document or other information in the possession or control of the department, including a memorandum in support of the opinion or other material provided by the company to the commissioner in connection with a memorandum, is:

(1) confidential and not subject to disclosure under Chapter 552, Government Code;

(2) privileged from subpoena or discovery in a private civil action; and

(3) inadmissible as evidence in a private civil action.

(k) The commissioner or any person who receives a document or other information described by Subsection (j) while acting under the authority of the commissioner may not testify and may not be compelled to testify in a private civil action concerning the content of the document or other information.

1 (1) The commissioner may:

2 (1) share documents or other information, including
3 the confidential and privileged documents or information described
4 by Subsection (j), with another state, federal, or international
5 regulatory agency, with the National Association of Insurance
6 Commissioners and its affiliates and subsidiaries, and with state,
7 federal, and international law enforcement authorities, provided
8 that the recipient agrees to maintain the confidentiality and
9 privileged status of the document or information;

10 (2) receive documents or other information, including
11 confidential and privileged documents or information, from the
12 National Association of Insurance Commissioners and its affiliates
13 and subsidiaries, and from regulatory and law enforcement officials
14 of other foreign or domestic jurisdictions, provided that the
15 commissioner shall maintain as confidential or privileged any
16 document or information received with notice or understanding that
17 it is confidential or privileged under the laws of the jurisdiction
18 that is the source of the document or information; and

19 (3) enter into agreements governing sharing and use of
20 documents and other information consistent with this section.

21 (m) Disclosing information or providing a document to the
22 commissioner under this section, or sharing information as
23 authorized under this section, does not result in a waiver of any
24 applicable privilege or claim of confidentiality that may apply to
25 the document or information.

26 (n) A memorandum in support of the opinion, and any other
27 material provided by the company to the commissioner in connection

1 with the memorandum, may be subject to subpoena for the purpose of
2 defending an action seeking damages from the actuary submitting the
3 memorandum by reason of an action required by this section or rules
4 adopted under this section.

5 (o) The memorandum or other material provided by the company
6 to the commissioner in connection with the memorandum may otherwise
7 be released by the commissioner with the written consent of the
8 company, or to the American Academy of Actuaries on receipt of a
9 request stating that the memorandum or other material is required
10 for the purpose of professional disciplinary proceedings and
11 setting forth procedures satisfactory to the commissioner for
12 preserving the confidentiality of the memorandum or other material.

13 (p) The memorandum ceases to be confidential if:

14 (1) any portion of the memorandum is cited by the
15 company in its marketing;

16 (2) the memorandum is cited by the company before a
17 government agency other than a state insurance department; or

18 (3) the memorandum is released by the company to the
19 news media.

20 (q) This section applies to an actuarial opinion for
21 policies and contracts issued before the operative date of the
22 valuation manual. Actuarial opinions for policies and contracts
23 issued on or after the operative date of the valuation manual are
24 governed by Section 425.0545.

25 (r) This section does not prohibit the commissioner from
26 using information acquired under this section in the furtherance of
27 a legal or regulatory action relating to the administration of this

1 code.

2 SECTION 7. Subchapter B, Chapter 425, Insurance Code, is
3 amended by adding Section 425.0545 to read as follows:

4 Sec. 425.0545. ACTUARIAL OPINION OF RESERVES AFTER
5 OPERATIVE DATE OF VALUATION MANUAL. (a) A company that has
6 outstanding life insurance contracts, accident and health
7 insurance contracts, or deposit-type contracts in this state and is
8 subject to regulation by the department shall annually submit the
9 opinion of the appointed actuary as to whether the reserves and
10 related actuarial items held in support of the policies and
11 contracts are computed appropriately, are based on assumptions that
12 satisfy contractual provisions, are consistent with prior reported
13 amounts, and are in compliance with applicable laws of this state.
14 A valuation under this section must comply with provisions of the
15 valuation manual, including in regard to its scope.

16 (b) Unless exempted by the valuation manual, a company
17 described by Subsection (a) shall include with the opinion required
18 by that subsection an opinion of the same appointed actuary
19 concerning whether the reserves and related actuarial items held in
20 support of the policies and contracts specified in the valuation
21 manual, when considered in light of the assets held by the company
22 with respect to the reserves and related actuarial items, including
23 investment earnings on the assets and considerations anticipated to
24 be received and retained under the policies and contracts, make
25 adequate provision for the company's obligations under the policies
26 and contracts, including benefits under and expenses associated
27 with the policies and contracts.

1 (c) The company shall submit a supporting memorandum in
2 accordance with the valuation manual and in a form and manner
3 determined by the commissioner by rule to support each actuarial
4 opinion under this section. If the company fails to provide a
5 supporting memorandum at the request of the commissioner within the
6 time specified by the valuation manual, or the commissioner
7 determines that the supporting memorandum provided by the company
8 fails to meet the standards prescribed by the valuation manual or is
9 otherwise unacceptable to the commissioner, the commissioner may
10 employ or contract with a qualified actuary at the expense of the
11 company to review the opinion and the basis for the opinion and
12 prepare the supporting memorandum required by the commissioner.

13 (d) Each opinion required by this section must:

14 (1) be in the form and contain the substance that is
15 specified by the valuation manual and is acceptable to the
16 commissioner;

17 (2) be submitted with the annual statement reflecting
18 the valuation of reserves for each year ending on or after the
19 operative date of the valuation manual;

20 (3) apply to all policies and contracts subject to
21 this section, plus other actuarial liabilities specified by the
22 valuation manual; and

23 (4) be based on standards adopted from time to time by
24 the Actuarial Standards Board or its successor, and on any
25 additional standards prescribed by the valuation manual.

26 (e) In the case of an opinion required to be submitted by a
27 foreign or alien company, the commissioner may accept the opinion

1 filed by the company with the insurance supervisory official of
2 another state if the commissioner determines that the opinion
3 reasonably meets the requirements applicable to a company domiciled
4 in this state.

5 SECTION 8. Section 425.055(a), Insurance Code, is amended
6 to read as follows:

7 (a) A memorandum that, in form and substance, complies with
8 the commissioner's rules shall be prepared to support each
9 actuarial opinion required by Section 425.054 or 425.0545.

10 SECTION 9. Section 425.056(a), Insurance Code, is amended
11 to read as follows:

12 (a) Except in cases of fraud or wilful misconduct or as
13 provided by Subsection (b), a person who certifies an opinion under
14 Section 425.054 or 425.0545 is not liable for damages to a person,
15 other than the life insurance company covered by the opinion, for an
16 act, error, omission, decision, or other conduct with respect to
17 the person's opinion.

18 SECTION 10. Section 425.057, Insurance Code, is amended to
19 read as follows:

20 Sec. 425.057. DISCIPLINARY ACTION: COMPANY OR PERSON
21 CERTIFYING OPINION. A company or person that certifies an opinion
22 under Section 425.054 or 425.0545 and that violates Section
23 425.054, 425.0545, or 425.055 or rules adopted under those sections
24 is subject to disciplinary action under Chapter 82.

25 SECTION 11. The heading to Section 425.058, Insurance Code,
26 is amended to read as follows:

27 Sec. 425.058. COMPUTATION [~~VALUATION~~] OF MINIMUM STANDARD

1 ~~[POLICY OR CONTRACT]~~: GENERAL RULE.

2 SECTION 12. The heading to Section 425.059, Insurance Code,
3 is amended to read as follows:

4 Sec. 425.059. COMPUTATION ~~[VALUATION]~~ OF MINIMUM STANDARD
5 FOR CERTAIN ANNUITIES AND PURE ENDOWMENT CONTRACTS.

6 SECTION 13. The heading to Section 425.064, Insurance Code,
7 is amended to read as follows:

8 Sec. 425.064. COMMISSIONERS RESERVE VALUATION METHOD FOR
9 LIFE INSURANCE AND ENDOWMENT BENEFITS.

10 SECTION 14. The heading to Section 425.065, Insurance Code,
11 is amended to read as follows:

12 Sec. 425.065. COMMISSIONERS ANNUITY RESERVE VALUATION
13 METHOD FOR ANNUITY AND PURE ENDOWMENT BENEFITS.

14 SECTION 15. Subchapter B, Chapter 425, Insurance Code, is
15 amended by adding Sections 425.072, 425.073, 425.074, 425.075,
16 425.076, and 425.077 to read as follows:

17 Sec. 425.072. MINIMUM STANDARD FOR ACCIDENT AND HEALTH
18 INSURANCE CONTRACTS. (a) The standard prescribed by the valuation
19 manual for accident and health insurance contracts issued on or
20 after the operative date of the valuation manual is the minimum
21 standard of valuation required under Section 425.0535.

22 (b) For disability, accident and sickness, and accident and
23 health insurance contracts issued before the operative date of the
24 valuation manual, the minimum standard of valuation is the standard
25 in existence before the operative date of the valuation manual.

26 Sec. 425.073. VALUATION MANUAL FOR CERTAIN POLICIES. (a)
27 Except as otherwise provided by this section, for policies issued

1 on or after the operative date of the valuation manual, the standard
2 prescribed by the valuation manual is the minimum standard of
3 valuation required under Section 425.0535.

4 (b) The commissioner by rule shall adopt a valuation manual
5 and determine the operative date of the valuation manual. A
6 valuation manual adopted by the commissioner under this section
7 must be substantially similar to the valuation manual approved by
8 the National Association of Insurance Commissioners. The operative
9 date must be January 1 of the first calendar year immediately
10 following a year in which, on or before July 1, the commissioner
11 determines that:

12 (1) the valuation manual has been adopted by the
13 National Association of Insurance Commissioners by an affirmative
14 vote of at least 42 members, or three-fourths of the members voting,
15 whichever is greater;

16 (2) the National Association of Insurance
17 Commissioners Standard Model Valuation Law, as amended by the
18 National Association of Insurance Commissioners in 2009, or
19 legislation including substantially similar terms and provisions,
20 has been enacted by states representing greater than 75 percent of
21 the direct premiums written as reported in the following annual
22 statements submitted for 2008:

23 (A) life insurance and accident and health annual
24 statements;

25 (B) health annual statements; or

26 (C) fraternal annual statements; and

27 (3) the National Association of Insurance

Commissioners Standard Model Valuation Law, as amended by the National Association of Insurance Commissioners in 2009, or legislation including substantially similar terms and provisions, has been enacted by at least 42 of the following 55 jurisdictions:

(A) the 50 United States;

(B) American Samoa;

(C) the United States Virgin Islands;

(D) the District of Columbia;

(E) Guam; and

(F) Puerto Rico.

(c) After a valuation manual has been adopted by the commissioner by rule, any changes to the valuation manual must be adopted by rule and must be consistent with changes adopted by the National Association of Insurance Commissioners. Unless a change in the valuation specifies a later effective date, the effective date for changes to the valuation manual may not be earlier than January 1 of the year immediately following the date on which the commissioner determines that the changes to the valuation manual have been adopted by the National Association of Insurance Commissioners by an affirmative vote representing:

(1) at least three-fourths of the members of the National Association of Insurance Commissioners voting, but not less than a majority of the total membership; and

(2) members of the National Association of Insurance Commissioners representing jurisdictions totaling greater than 75 percent of the direct premiums written as reported in the annual statements submitted for 2008 as provided by Subsection (b)(2).

1 (d) The valuation manual must specify:

2 (1) the minimum valuation standards for and
3 definitions of the policies or contracts subject to Section
4 425.0535, including:

5 (A) the commissioner's reserve valuation method
6 for life insurance contracts subject to Section 425.0535;

7 (B) the commissioner's annuity reserve
8 valuation method for annuity contracts subject to Section 425.0535;
9 and

10 (C) the minimum reserves for all other policies
11 or contracts subject to Section 425.0535;

12 (2) the policies or contracts that are subject to the
13 requirements of a principle-based valuation under Section 425.074
14 and the minimum valuation standards consistent with those
15 requirements, including:

16 (A) the requirements for the format of reports to
17 the commissioner under Section 425.074(b)(3), which must include
18 the information necessary to determine if a valuation is
19 appropriate and in compliance with this subchapter;

20 (B) the assumptions prescribed for risks over
21 which the company does not have significant control or influence;
22 and

23 (C) the procedures for corporate governance and
24 oversight of the actuarial function, and a process for appropriate
25 waiver or modification of the procedures;

26 (3) the policies that are not subject to a
27 principle-based valuation under Section 425.074;

1 (4) the data and form of data required under Section
2 425.074, to whom the data must be submitted, and other desired
3 requirements, including requirements concerning data analyses and
4 reporting of analyses; and

5 (5) other requirements, including requirements
6 relating to reserve methods, risk measurement, generation of
7 economic scenarios, assumptions, margins, use of company
8 experience, disclosure, certification, reports, actuarial opinions
9 and memorandums, transition rules, and internal controls.

10 (e) With respect to policies that are not subject to a
11 principle-based valuation under Section 425.074 as described by
12 Subsection (d)(3), the minimum valuation standard must:

13 (1) be consistent with the minimum valuation standard
14 before the operative date of the valuation manual; or

15 (2) develop reserves that quantify the benefits and
16 guarantees, and the funding, associated with the contracts and
17 their risks at a level of conservatism that reflects conditions
18 that include unfavorable events that have a reasonable probability
19 of occurring.

20 (f) In the absence of a specific valuation requirement or if
21 a specific valuation requirement in the valuation manual does not
22 in the commissioner's opinion comply with this subchapter, the
23 company shall, with respect to the requirement, comply with minimum
24 valuation standards prescribed by the commissioner by rule.

25 (g) The commissioner may employ or contract with a qualified
26 actuary, at the expense of the company, to perform an actuarial
27 examination of the company and provide an opinion concerning the

appropriateness of any reserve assumption method used by the company, or to review and provide an opinion on a company's compliance with any requirement of this section. The commissioner may rely on the opinion, regarding provisions contained within this section, of a qualified actuary engaged by the insurance supervisory official of another state.

(h) The commissioner may require a company to change an assumption or method as necessary in the commissioner's opinion to comply with a requirement of the valuation manual or this subchapter.

(i) The commissioner may take other disciplinary action as permitted under Chapter 82.

Sec. 425.074. PRINCIPLE-BASED VALUATION REQUIRED. (a) A company shall establish reserves using a principle-based valuation that meets the conditions for policies or contracts provided by the valuation manual. At a minimum, the valuation shall:

(1) quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring during the terms of the contracts;

(2) with respect to policies and contracts with significant tail risk, reflect conditions appropriately adverse to quantify the tail risk;

(3) incorporate assumptions, risk analysis methods, and financial models and management techniques that are consistent with those used in the company's overall risk assessment process,

while recognizing potential differences in financial reporting structures and any prescribed assumptions or methods;

(4) incorporate assumptions:

(A) prescribed by the valuation manual; or

(B) established:

(i) using the company's available experience, to the extent that data is relevant and statistically credible; or

(ii) to the extent that the company data is not available, relevant, or statistically credible, using other relevant, statistically credible experience; and

(5) provide margins for uncertainty including adverse deviation and estimation error, such that the greater the uncertainty the larger the margin and resulting reserve.

(b) A company using a principle-based valuation for one or more policies or contracts subject to this section and as specified by the valuation manual shall:

(1) establish procedures for corporate governance and oversight of the actuarial valuation function consistent with procedures specified by the valuation manual;

(2) provide to the commissioner and the company's board of directors an annual certification of the effectiveness of the internal controls with respect to the principle-based valuation; and

(3) develop, and file with the commissioner on request, a principle-based valuation report that complies with standards prescribed in the valuation manual.

1 (c) A company's internal controls with respect to the
2 principle-based valuation must be designed to ensure that all
3 material risks inherent in the liabilities and associated assets
4 subject to the valuation are included in the valuation, and that
5 valuations are made in accordance with the valuation manual. The
6 certification described by Subsection (b)(2) must be based on the
7 controls in place as of the end of the preceding calendar year.

8 (d) A principle-based valuation may include a prescribed
9 formulaic reserve component.

10 Sec. 425.075. EXPERIENCE REPORTING FOR POLICIES IN FORCE ON
11 OR AFTER OPERATIVE DATE OF VALUATION MANUAL. A company shall submit
12 mortality, morbidity, policyholder behavior, or expense experience
13 and other data as prescribed in the valuation manual.

14 Sec. 425.076. CONFIDENTIALITY. (a) This section applies
15 to:

16 (1) a memorandum in support of an opinion submitted
17 under Section 425.0545;

18 (2) any documents or other information, produced or
19 obtained by or disclosed to the commissioner or any other person:

20 (A) in connection with the memorandum;

21 (B) in the course of an examination made under
22 Section 425.073(g), except that if an examination report or other
23 material prepared in connection with an examination made under
24 Subchapter B, Chapter 401, is not held as privileged and
25 confidential under Chapter 401, an examination report or other
26 material prepared in connection with an examination made under
27 Section 425.073(g) is not confidential to the same extent as if the

1 examination report or other material had been prepared under
2 Subchapter B, Chapter 401;

3 (C) in support of, or in connection with, an
4 annual certification by the company under Section 425.074(b)(2)
5 evaluating the effectiveness of the company's internal controls
6 with respect to a principle-based valuation; or

7 (D) in the development of a principle-based
8 valuation report developed under Section 425.074(b)(3); and

9 (3) any documents or other information submitted by
10 the company under Section 425.074, including experience data to the
11 extent that the data contain information that could potentially
12 identify a company or individual.

13 (b) Except as provided by this section, a memorandum and any
14 documents or other information described by Subsection (a) are:

15 (1) confidential and not subject to disclosure under
16 Chapter 552, Government Code;

17 (2) privileged from subpoena or discovery in a private
18 civil action; and

19 (3) inadmissible as evidence in a private civil
20 action.

21 (c) This section does not prohibit the commissioner from
22 using information acquired under this section in the furtherance of
23 a legal or regulatory action relating to the administration of this
24 code.

25 (d) The commissioner or any person who receives a document
26 or other information described by Subsection (a) while acting under
27 the authority of the commissioner may not testify and may not be

1 compelled to testify in a private civil action concerning the
2 content of the document or other information.

3 (e) Subject to Subsection (f), the commissioner may share
4 information described by Subsection (a) with:

5 (1) another state, federal, or international
6 regulatory agency;

7 (2) the National Association of Insurance
8 Commissioners and its affiliates and subsidiaries;

9 (3) in the case of information described by Subsection
10 (a)(1) or (2)(D), the Actuarial Board for Counseling and Discipline
11 or its successor on receipt of a request stating that the
12 information is required for the purpose of professional
13 disciplinary proceedings; and

14 (4) state, federal, and international law enforcement
15 officials.

16 (f) With respect to Subsections (e)(1) and (2), the
17 commissioner may not share documents or other information described
18 by Subsection (a) unless the recipient agrees and has the legal
19 authority to agree to maintain the confidentiality and privileged
20 status of the documents or information in the same manner and to the
21 same extent as is required for the commissioner.

22 (g) The commissioner may receive documents and other
23 information, including otherwise confidential and privileged
24 documents or information, from the National Association of
25 Insurance Commissioners and its affiliates and subsidiaries, from
26 regulatory or law enforcement officials of other foreign or
27 domestic jurisdictions, and from the Actuarial Board for Counseling

1 and Discipline or its successor, and shall maintain as confidential
2 or privileged any document or other information received with
3 notice or the understanding that it is confidential or privileged
4 under the laws of the jurisdiction that is the source of the
5 document or other information.

6 (h) The commissioner may enter agreements governing sharing
7 and use of information consistent with this section.

8 (i) Disclosing information or providing a document to the
9 commissioner under this section, or sharing information as
10 authorized under this section, does not result in a waiver of any
11 applicable privilege or claim of confidentiality that may apply to
12 the document or information.

13 (j) A privilege established under the law of any state or
14 jurisdiction that is substantially similar to the privilege
15 established under this section is enforceable in any proceeding in,
16 and in any court of, this state.

17 (k) In this section, a reference to a regulatory agency, law
18 enforcement agency, or the National Association of Insurance
19 Commissioners includes an employee, agent, consultant, or
20 contractor of the agency or association, as applicable.

21 (l) Notwithstanding this section, any confidential
22 information specified in Subsection (a) may be:

23 (1) subject to subpoena for the purpose of defending
24 an action seeking damages from the appointed actuary submitting the
25 related memorandum in support of an opinion submitted under Section
26 425.054 or 425.0545 or a principle-based valuation report developed
27 under Section 425.074(b)(3) by reason of an action required by this

1 subchapter or by rules adopted under this subchapter; and

2 (2) released by the commissioner with the written
3 consent of the company.

4 (m) A memorandum in support of an opinion submitted under
5 Section 425.054 or 425.0545 or a principle-based valuation report
6 developed under Section 425.074(b)(3) ceases to be confidential if:

7 (1) any portion of the memorandum or report is cited by
8 the company in its marketing;

9 (2) the memorandum or report is cited by the company
10 before a government agency other than a state insurance department;
11 or

12 (3) the memorandum or report is released by the
13 company to the news media.

14 Sec. 425.077. SINGLE STATE EXEMPTION. (a) The
15 commissioner may exempt specific product forms or product lines of
16 a domestic company that is licensed and doing business only in this
17 state from the requirements of Section 425.073 if:

18 (1) the commissioner has issued an exemption in
19 writing to the company and has not subsequently revoked the
20 exemption in writing; and

21 (2) the company computes reserves using assumptions
22 and methods used before the operative date of the valuation manual
23 in addition to any requirements established by the commissioner and
24 adopted by rule.

25 (b) Sections 425.054, 425.058, and 425.072 apply to a
26 company granted an exemption under this section. For a company
27 applying for this exemption, any reference to Section 425.073 found

1 in Section 425.054, 425.058, or 425.072 does not apply.

2 SECTION 16. The commissioner of insurance shall determine
3 whether the National Association of Insurance Commissioners and a
4 sufficient number of states and other jurisdictions have adopted a
5 valuation manual as required by Section 425.073(b), Insurance Code,
6 as added by this Act. As soon as practicable after the commissioner
7 of insurance determines that the National Association of Insurance
8 Commissioners and a sufficient number of states and other
9 jurisdictions have adopted the valuation manual as required by that
10 section, the commissioner of insurance shall adopt rules necessary
11 to implement this Act.

12 SECTION 17. This Act takes effect January 1, 2014.