

By: Eiland

H.B. No. 3460

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the requirement that certain information be reported to  
3 the Texas Department of Insurance and the confidentiality of that  
4 information.

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

6 SECTION 1. Section 823.011(a), Insurance Code, is amended  
7 to read as follows:

8 (a) This section applies only to information, including  
9 documents and copies of documents, that is:

10 (1) reported or otherwise provided under Subchapter B  
11 or C or Section 823.201(d) or (e); or

12 (2) [~~disclosed to the commissioner under Section~~  
13 ~~823.010; or~~

14 [~~(3)~~] obtained by or disclosed to the commissioner or  
15 another person in the course of an examination or investigation  
16 under Subchapter H.

17 SECTION 2. Section 823.052(c), Insurance Code, is amended  
18 to read as follows:

19 (c) The registration statement must also contain  
20 information about:

21 (1) each outstanding loan the insurer makes to an  
22 affiliate of the insurer or an affiliate makes to the insurer;

23 (2) each purchase, sale, or exchange of securities or  
24 other investment between the insurer and an affiliate of the

1 insurer;

2 (3) each purchase, sale, or exchange of assets between  
3 the insurer and an affiliate of the insurer;

4 (4) each management and service contract or  
5 cost-sharing arrangement between the insurer and an affiliate of  
6 the insurer;

7 (5) each reinsurance agreement between the insurer and  
8 an affiliate of the insurer that covers one or more lines of  
9 insurance of the ceding company;

10 (6) each agreement between the insurer and an  
11 affiliate of the insurer to consolidate federal income tax returns;

12 (7) each transaction between the insurer and an  
13 affiliated financial institution;

14 (8) each transaction between the insurer and an  
15 affiliate of the insurer that is not in the ordinary course of  
16 business;

17 (9) each guarantee or undertaking, other than an  
18 insurance contract entered into in the ordinary course of the  
19 insurer's business, for the benefit of an affiliate of the insurer  
20 that results in a contingent exposure of the insurer's assets to  
21 liability;

22 (10) each dividend or distribution to the insurer's  
23 shareholders;

24 (11) each transaction between the insurer and an  
25 affiliate of the insurer not specified by this subsection that is  
26 subject to Section [~~823.102~~] 823.103[~~7~~] or 823.104;

27 (12) the corporate governance and internal control

1 responsibilities of the insurer's board of directors, including a  
2 statement that:

3 (A) the insurer's senior management or officers  
4 have approved and implemented, and continue to maintain and  
5 monitor, corporate governance and internal control procedures; and

6 (B) the insurer's board of directors oversees  
7 corporate governance and internal controls; and

8 (13) any other information that the commissioner  
9 requires by rule.

10 SECTION 3. Section 823.053(e), Insurance Code, is amended  
11 to read as follows:

12 (e) An insurer is not required to report under this section  
13 a transaction that is approved under Section [~~823.102 or~~ 823.103.  
14 That approval is considered to be an amendment of the registration  
15 statement filed under Section 823.052 without being reported under  
16 this section.

17 SECTION 4. Section 823.103(a), Insurance Code, is amended  
18 to read as follows:

19 (a) This section applies only to:

20 (1) a sale, purchase, exchange, loan or other  
21 extension of credit, or investment between a domestic insurer and  
22 any person in the insurer's insurance holding company system,  
23 including an amendment or modification of an affiliate agreement  
24 previously filed under this section, or a person who is not an  
25 affiliate if the insurer makes a loan or extension of credit with  
26 the agreement or understanding that the proceeds of the  
27 transaction, wholly or in substantial part, are to be used to make

1 loans or extensions of credit to purchase assets of, or to make  
2 investment in, an affiliate of the insurer, provided the  
3 transaction is not less than:

4 (A) with respect to nonlife insurers, the lesser  
5 of three [~~that involves more than the lesser of one-half of one~~]  
6 percent of the insurer's admitted assets or 25 [~~five~~] percent of the  
7 insurer's surplus, as of December 31 of the year preceding the year  
8 in which the transaction occurs; or [~~and~~]

9 (B) with respect to life insurers, three percent  
10 of the insurer's admitted assets as of December 31 of the year  
11 preceding the year in which the transaction occurs [~~the approval of~~  
12 ~~which is not required under Section 823.102~~];

13 (2) a reinsurance agreement, including a reinsurance  
14 treaty or pooling agreement, or an amendment or modification of an  
15 agreement previously filed under this section, between a domestic  
16 insurer and any person in the insurer's holding company system;

17 (3) a rendering of services between a domestic insurer  
18 and any person in the insurer's holding company system on a regular  
19 or systematic basis, including a tax-allocation agreement, or an  
20 amendment or modification of an agreement previously filed under  
21 this section; or

22 (4) any material transaction between a domestic  
23 insurer and any person in the insurer's holding company system that  
24 is specified by rule and that the commissioner determines may  
25 adversely affect the interests of the insurer's policyholders or of  
26 the public, including an amendment or modification of an agreement  
27 previously filed under this section.

1 SECTION 5. Section 823.104, Insurance Code, is amended to  
2 read as follows:

3 Sec. 823.104. PROHIBITION OF ACTION TO AVOID APPLICATION OF  
4 SUBCHAPTER. (a) A domestic insurer may not enter into transactions  
5 with persons in the insurer's insurance holding company system if:

6 (1) the transactions are part of a plan or series of  
7 similar transactions; and

8 (2) the purpose of entering into the transactions is  
9 to avoid a threshold amount provided by Section [~~823.102 or~~]  
10 823.103.

11 (b) If the commissioner determines that over any 12-month  
12 period a domestic insurer enters into transactions that violate  
13 Subsection (a), the commissioner may:

14 (1) consider the cumulative effect of the  
15 transactions; and

16 (2) apply:

17 (A) Section [~~823.102 or~~] 823.103; or

18 (B) sanctions under this code.

19 SECTION 6. Section 823.105, Insurance Code, is amended to  
20 read as follows:

21 Sec. 823.105. TYPE OF AUTHORITY PROVIDED. Nothing in  
22 Section [~~823.102~~] 823.103[~~7~~] or 823.104 authorizes a transaction  
23 that would violate law that is applicable to an insurer that is not  
24 subject to this subchapter.

25 SECTION 7. Section 823.102, Insurance Code, is repealed.

26 SECTION 8. This Act takes effect immediately if it receives  
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this  
2 Act does not receive the vote necessary for immediate effect, this  
3 Act takes effect September 1, 2013.