

By: Hancock

S.B. No. 1379

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

8 (a) In this subchapter:

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

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

16 (3) "Company" means an entity that:

17 (A) has written, issued, or reinsured life
18 insurance contracts, accident and health insurance contracts, or
19 deposit-type contracts in this state and has at least one such
20 policy in force or on claim; or

21 (B) has written, issued, or reinsured life
22 insurance contracts, accident and health insurance contracts, or
23 deposit-type contracts in any state and is required to hold a
24 certificate of authority to write life insurance, accident and

1 health insurance, or deposit-type contracts in this state.

2 (4) "Deposit-type contract" means a contract that does
3 not incorporate mortality or morbidity risk and as may be specified
4 in the valuation manual.

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

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

17 (7) "Principle-based valuation" means the valuation
18 described by Section 425.074.

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

24 (9) "Reserves" [~~,"reserves"~~] means reserve
25 liabilities.

26 (10) "Tail risk" means a risk that occurs either where
27 the frequency of low probability events is higher than expected

1 under a normal probability distribution or where there are observed
2 events of very significant size or magnitude.

3 (11) "Valuation manual" means the manual of valuation
4 instructions adopted by the commissioner by rule.

5 (c) The definitions under Subsection (a) of "accident and
6 health insurance," "appointed actuary," "company," "deposit-type
7 contract," "life insurance," "policyholder behavior,"
8 "principle-based valuation," "qualified actuary," and "tail risk"
9 apply only on and after the operative date of the valuation manual.

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

12 Sec. 425.053. ANNUAL VALUATION OF RESERVES FOR POLICIES AND
13 CONTRACTS ISSUED BEFORE OPERATIVE DATE OF VALUATION MANUAL.

14 SECTION 3. Section 425.053, Insurance Code, is amended by
15 amending Subsections (a) and (c) and adding Subsections (d) and (e)
16 to read as follows:

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

26 (c) Instead of valuing the reserves as required by
27 Subsection (a) for a foreign or alien company, the department may

1 accept any valuation made by or for the insurance supervisory
2 official of another state or jurisdiction if[+]

3 [~~(1)~~] the valuation complies with the minimum standard
4 provided by this subchapter[+ and

5 [~~(2)~~ the official accepts as sufficient and valid for
6 all legal purposes a certificate of valuation made by the
7 department that states the valuation was made in a specified manner
8 according to which the aggregate reserves would be at least as large
9 as they would be if computed in the manner prescribed by the law of
10 that state or jurisdiction].

11 (d) Except as otherwise provided by this subchapter,
12 policies and contracts issued on or after the operative date of the
13 valuation manual are governed by Section 425.0535.

14 (e) The minimum standards for the valuation of policies and
15 contracts issued before the operative date of the valuation manual
16 are as provided by Sections 425.058 through 425.071 and Section
17 425.072(b), as applicable. Sections 425.072(a), 425.073, and
18 425.074 do not apply to a policy or contract described by this
19 subsection.

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

22 Sec. 425.0535. ANNUAL VALUATION OF RESERVES FOR POLICIES
23 AND CONTRACTS ISSUED ON OR AFTER OPERATIVE DATE OF VALUATION
24 MANUAL. (a) The commissioner shall annually value, or cause to be
25 valued, the reserves for all outstanding life insurance contracts,
26 annuity and pure endowment contracts, accident and health
27 contracts, and deposit-type contracts of each company issued on or

1 after the operative date of the valuation manual as provided by this
2 section.

3 (b) In lieu of the valuation of the reserves required of a
4 foreign or alien company, the commissioner may accept a valuation
5 made, or caused to be made, by the insurance supervisory official of
6 another state if the valuation complies with the minimum standard
7 provided by this subchapter.

8 (c) Sections 425.072(a), 425.073, and 425.074 apply to all
9 policies and contracts issued on or after the operative date of the
10 valuation manual.

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

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

15 SECTION 6. Section 425.054, Insurance Code, is amended by
16 amending Subsection (a) and adding Subsections (a-1), (j), (k),
17 (l), (m), (n), (o), (p), and (q) to read as follows:

18 (a) This section applies only to an actuarial opinion of
19 reserves before the operative date of the valuation manual.
20 Actuarial opinions of reserves on or after the operative date of the
21 valuation manual are governed by Section 425.0545.

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

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

26 (2) a person who, before September 1, 1993, satisfied
27 the requirements of the former State Board of Insurance to submit an

1 opinion under former Section 2A(a)(1), Article 3.28.

2 (j) Except as provided by Subsections (l), (n), (o), and
3 (p), any document or other information in the possession or control
4 of the department that is a memorandum in support of the opinion or
5 other material provided by the company to the commissioner in
6 connection with a memorandum is confidential and not subject to:

7 (1) disclosure under Chapter 552, Government Code;

8 (2) subpoena;

9 (3) discovery; or

10 (4) admissibility as evidence in a private civil
11 action.

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

17 (l) The commissioner may:

18 (1) share documents or other information, including
19 the confidential documents or information described by Subsection
20 (j), with another state, federal, or international regulatory
21 agency, with the National Association of Insurance Commissioners
22 and its affiliates and subsidiaries, and with state, federal, and
23 international law enforcement authorities, provided that the
24 recipient agrees to maintain the confidentiality of the document or
25 information;

26 (2) receive documents or other information, including
27 confidential documents or information, from the National

1 Association of Insurance Commissioners and its affiliates and
2 subsidiaries, and from regulatory and law enforcement officials of
3 other foreign or domestic jurisdictions, provided that the
4 commissioner shall maintain as confidential any document or
5 information received with notice or understanding that it is
6 confidential under the laws of the jurisdiction that is the source
7 of the document or information; and

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

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

15 (n) A memorandum in support of the opinion, and any other
16 material provided by the company to the commissioner in connection
17 with the memorandum, may be subject to subpoena for the purpose of
18 defending an action seeking damages from the actuary submitting the
19 memorandum by reason of an action required by this section or rules
20 adopted under this section.

21 (o) The memorandum or other material provided by the company
22 to the commissioner in connection with the memorandum may otherwise
23 be released by the commissioner with the written consent of the
24 company, or to the American Academy of Actuaries on receipt of a
25 request stating that the memorandum or other material is required
26 for the purpose of professional disciplinary proceedings and
27 setting forth procedures satisfactory to the commissioner for

1 preserving the confidentiality of the memorandum or other material.

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

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

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

7 (3) the memorandum is released by the company to the
8 news media.

9 (q) This section does not prohibit the commissioner from
10 using information acquired under this section in the furtherance of
11 a legal or regulatory action relating to the administration of this
12 code.

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

15 Sec. 425.0545. ACTUARIAL OPINION OF RESERVES AFTER
16 OPERATIVE DATE OF VALUATION MANUAL. (a) A company that has
17 outstanding life insurance contracts, accident and health
18 insurance contracts, or deposit-type contracts in this state and is
19 subject to regulation by the department shall annually submit the
20 opinion of the appointed actuary as to whether the reserves and
21 related actuarial items held in support of the policies and
22 contracts are computed appropriately, are based on assumptions that
23 satisfy contractual provisions, are consistent with prior reported
24 amounts, and are in compliance with applicable laws of this state.
25 An opinion under this section must comply with provisions of the
26 valuation manual, including in regard to any items necessary to its
27 scope.

1 (b) Unless exempted by the valuation manual, a company
2 described by Subsection (a) shall include with the opinion required
3 by that subsection an opinion of the same appointed actuary
4 concerning whether the reserves and related actuarial items held in
5 support of the policies and contracts specified in the valuation
6 manual, when considered in light of the assets held by the company
7 with respect to the reserves and related actuarial items, including
8 investment earnings on the assets and considerations anticipated to
9 be received and retained under the policies and contracts, make
10 adequate provision for the company's obligations under the policies
11 and contracts, including benefits under and expenses associated
12 with the policies and contracts.

13 (c) 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 (d) 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. Subsection (a), Section 425.055, Insurance Code,
6 is amended 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. The
10 form and substance of each supporting memorandum must comply with
11 the commissioner's rules and, for actuarial opinions subject to
12 Section 425.0545, the valuation manual.

13 SECTION 9. Subsection (a), Section 425.056, Insurance Code,
14 is amended to read as follows:

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

21 SECTION 10. Section 425.057, Insurance Code, is amended to
22 read as follows:

23 Sec. 425.057. DISCIPLINARY ACTION: COMPANY OR PERSON
24 CERTIFYING OPINION. A company or person that certifies an opinion
25 under Section 425.054 or 425.0545 and that violates Section
26 425.054, 425.0545, or 425.055 or rules adopted under those sections
27 is subject to disciplinary action under Chapter 82.

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

3 Sec. 425.058. COMPUTATION [~~VALUATION~~] OF MINIMUM STANDARD
4 [~~POLICY OR CONTRACT~~]: GENERAL RULE.

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

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

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

11 Sec. 425.064. COMMISSIONERS RESERVE VALUATION METHOD FOR
12 LIFE INSURANCE AND ENDOWMENT BENEFITS.

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

15 Sec. 425.065. COMMISSIONERS ANNUITY RESERVE VALUATION
16 METHOD FOR ANNUITY AND PURE ENDOWMENT BENEFITS.

17 SECTION 15. Subchapter B, Chapter 425, Insurance Code, is
18 amended by adding Sections 425.072, 425.073, 425.074, 425.075,
19 425.076, and 425.077 to read as follows:

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

25 (b) For disability, accident and sickness, and accident and
26 health insurance contracts issued before the operative date of the
27 valuation manual, the minimum standard of valuation is the standard

1 in existence before the operative date of the valuation manual.

2 Sec. 425.073. VALUATION MANUAL FOR CERTAIN POLICIES.

3 (a) Except as otherwise provided by this section, for policies
4 issued on or after the operative date of the valuation manual, the
5 standard prescribed by the valuation manual is the minimum standard
6 of valuation required under Section 425.0535.

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

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

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

26 (A) life insurance and accident and health annual
27 statements;

1 (B) health annual statements; or

2 (C) fraternal annual statements; and

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

8 (A) the 50 United States;

9 (B) American Samoa;

10 (C) the United States Virgin Islands;

11 (D) the District of Columbia;

12 (E) Guam; and

13 (F) Puerto Rico.

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

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

27 (2) members of the National Association of Insurance

1 Commissioners representing jurisdictions totaling greater than 75
2 percent of the direct premiums written as reported in the most
3 recently available annual statements as provided by Subsection
4 (b)(2).

5 (d) The valuation manual must specify:

6 (1) the minimum valuation standards for and
7 definitions of the policies or contracts subject to Section
8 425.0535, including:

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

11 (B) the commissioner's annuity reserve
12 valuation method for annuity contracts subject to Section 425.0535;
13 and

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

16 (2) the policies or contracts that are subject to the
17 requirements of a principle-based valuation under Section 425.074
18 and the minimum valuation standards consistent with those
19 requirements, including:

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

24 (B) the assumptions prescribed for risks over
25 which the company does not have significant control or influence;
26 and

27 (C) the procedures for corporate governance and

1 oversight of the actuarial function, and a process for appropriate
2 waiver or modification of the procedures;

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

5 (4) the data and form of data required under Section
6 425.074, to whom the data must be submitted, and other desired
7 requirements, including requirements concerning data analyses and
8 reporting of analyses; and

9 (5) other requirements, including requirements
10 relating to reserve methods, models for measuring risk, generation
11 of economic scenarios, assumptions, margins, use of company
12 experience, disclosure, certification, reports, actuarial opinions
13 and memorandums, transition rules, and internal controls.

14 (e) With respect to policies that are not subject to a
15 principle-based valuation under Section 425.074 as described by
16 Subsection (d)(3), the minimum valuation standard specified in the
17 valuation manual must:

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

20 (2) develop reserves that quantify the benefits and
21 guarantees, and the funding, associated with the contracts and
22 their risks at a level of conservatism that reflects conditions
23 that include unfavorable events that have a reasonable probability
24 of occurring.

25 (f) In the absence of a specific valuation requirement or if
26 a specific valuation requirement in the valuation manual does not
27 in the commissioner's opinion comply with this subchapter, the

1 company shall, with respect to the requirement, comply with minimum
2 valuation standards prescribed by the commissioner by rule.

3 (g) The commissioner may employ or contract with a qualified
4 actuary, at the expense of the company, to perform an actuarial
5 examination of the company and provide an opinion concerning the
6 appropriateness of any reserve assumption or method used by the
7 company, or to review and provide an opinion on a company's
8 compliance with any requirement of this subchapter. The
9 commissioner may rely on the opinion, regarding provisions
10 contained within this subchapter, of a qualified actuary engaged by
11 the insurance supervisory official of another state.

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

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

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

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

27 (2) with respect to policies and contracts with

1 significant tail risk, reflect conditions appropriately adverse to
2 quantify the tail risk;

3 (3) incorporate assumptions, risk analysis methods,
4 and financial models and management techniques that are consistent
5 with those used in the company's overall risk assessment process,
6 while recognizing potential differences in financial reporting
7 structures and any prescribed assumptions or methods;

8 (4) incorporate assumptions:

9 (A) prescribed by the valuation manual; or

10 (B) established:

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

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

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

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

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

26 (2) provide to the commissioner and the company's
27 board of directors an annual certification of the effectiveness of

1 the internal controls with respect to the principle-based
2 valuation; and

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

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

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

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

19 Sec. 425.076. CONFIDENTIALITY. (a) This section applies
20 to:

21 (1) a memorandum in support of an opinion submitted
22 under Section 425.0545;

23 (2) a principle-based valuation report developed
24 under Section 425.074(b)(3);

25 (3) any documents or other information, produced or
26 obtained by or disclosed to the commissioner or any other person:

27 (A) in connection with the memorandum or

1 principle-based valuation report;

2 (B) in the course of an examination made under
3 Section 425.073(g), except that if an examination report or other
4 material prepared in connection with an examination made under
5 Subchapter B, Chapter 401, is not held as privileged and
6 confidential under Chapter 401, an examination report or other
7 material prepared in connection with an examination made under
8 Section 425.073(g) is not confidential to the same extent as if the
9 examination report or other material had been prepared under
10 Subchapter B, Chapter 401;

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

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

17 (4) any documents or other information submitted by
18 the company under Section 425.074, or documents or information
19 created, produced, or obtained by the commissioner in connection
20 with the submissions, including experience data to the extent that
21 the data contain information that could potentially identify a
22 company or individual.

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

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

27 (2) privileged from subpoena; and

1 (3) privileged from discovery and inadmissible as
2 evidence in a private civil action.

3 (c) This section does not prohibit the commissioner from
4 using information acquired under this section in the furtherance of
5 a legal or regulatory action relating to the administration of this
6 code.

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

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

14 (1) another state, federal, or international
15 regulatory agency;

16 (2) the National Association of Insurance
17 Commissioners and its affiliates and subsidiaries;

18 (3) in the case of information described by Subsection
19 (a)(1) or (2), the Actuarial Board for Counseling and Discipline or
20 its successor on receipt of a request stating that the information
21 is required for the purpose of professional disciplinary
22 proceedings; and

23 (4) state, federal, and international law enforcement
24 officials.

25 (f) With respect to Subsections (e)(1), (2), and (3), the
26 commissioner may not share documents or other information described
27 by Subsection (a) unless the recipient agrees and has the legal

1 authority to agree to maintain the confidentiality and privileged
2 status of the documents or information in the same manner and to the
3 same extent as is required for the commissioner.

4 (g) The commissioner may receive documents and other
5 information, including otherwise confidential and privileged
6 documents or information, from the National Association of
7 Insurance Commissioners and its affiliates and subsidiaries, from
8 regulatory or law enforcement officials of other foreign or
9 domestic jurisdictions, and from the Actuarial Board for Counseling
10 and Discipline or its successor, and shall maintain as confidential
11 or privileged any document or other information received with
12 notice or the understanding that it is confidential or privileged
13 under the laws of the jurisdiction that is the source of the
14 document or other information.

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

17 (i) Disclosing information or providing a document to the
18 commissioner under this section, or sharing information as
19 authorized under this section, does not result in a waiver of any
20 applicable privilege or claim of confidentiality that may apply to
21 the document or information.

22 (j) A privilege established under the law of any state or
23 jurisdiction that is substantially similar to the privilege
24 established under this section is enforceable in any proceeding in,
25 and in any court of, this state.

26 (k) In this section, a reference to a regulatory agency, law
27 enforcement agency, or the National Association of Insurance

1 Commissioners includes an employee, agent, consultant, or
2 contractor of the agency or association, as applicable.

3 (1) Notwithstanding this section, any confidential
4 information specified in Subsection (a) may be:

5 (1) subject to subpoena for the purpose of defending
6 an action seeking damages from the appointed actuary submitting the
7 related memorandum in support of an opinion submitted under Section
8 425.054 or 425.0545 or a principle-based valuation report developed
9 under Section 425.074(b)(3) by reason of an action required by this
10 subchapter or by rules adopted under this subchapter; and

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

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

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

18 (2) the company publicly volunteers the memorandum or
19 report to a government agency other than a state insurance
20 department; or

21 (3) the memorandum or report is released by the
22 company to the news media.

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

27 (1) the commissioner has issued an exemption in

1 writing to the company and has not subsequently revoked the
2 exemption in writing; and

3 (2) the company computes reserves using assumptions
4 and methods used before the operative date of the valuation manual
5 in addition to any requirements established by the commissioner and
6 adopted by rule.

7 (b) Sections 425.058 through 425.071 and Section 425.072(b)
8 apply to a company granted an exemption under this section.

9 SECTION 16. The commissioner of insurance shall determine
10 whether the National Association of Insurance Commissioners and a
11 sufficient number of states and other jurisdictions have adopted a
12 valuation manual as required by Subsection (b), Section 425.073,
13 Insurance Code, as added by this Act. As soon as practicable after
14 the commissioner of insurance determines that the National
15 Association of Insurance Commissioners and a sufficient number of
16 states and other jurisdictions have adopted the valuation manual as
17 required by that section, the commissioner of insurance shall adopt
18 rules necessary to implement this Act.

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