

By: Sheets

H.B. No. 1379

A BILL TO BE ENTITLED

AN ACT

relating to the standard valuation and nonforfeiture requirements 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 425.0545.

(3) "Company" means an entity that:

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

(B) has written, issued, or reinsured life insurance contracts, accident and health insurance contracts, or deposit-type contracts in any state and is required to hold a 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 ISSUED 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 issued before the operative date of the valuation manual.

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

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

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

27 (j) Except as provided by Subsections (l), (n), (o), and

1 (p), any document or other information in the possession or control
2 of the department that is a memorandum in support of the opinion or
3 other material provided by the company to the commissioner in
4 connection with a memorandum is confidential and not subject to:

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

6 (2) subpoena;

7 (3) discovery; or

8 (4) admissibility as evidence in a private civil
9 action.

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

15 (1) The commissioner may:

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

24 (2) receive documents or other information, including
25 confidential and privileged documents or information, from the
26 National Association of Insurance Commissioners and its affiliates
27 and subsidiaries, and from regulatory and law enforcement officials

1 of other foreign or domestic jurisdictions, provided that the
2 commissioner shall maintain as confidential any document or
3 information received with notice or understanding that it is
4 confidential and privileged under the laws of the jurisdiction that
5 is the source of the document or information; and

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

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

19 (o) The memorandum or other material provided by the company
20 to the commissioner in connection with the memorandum may otherwise
21 be released by the commissioner with the written consent of the
22 company, or to the Actuarial Board for Counseling and Discipline or
23 its successor on receipt of a request stating that the memorandum or
24 other material is required for the purpose of professional
25 disciplinary proceedings and setting forth procedures satisfactory
26 to the commissioner for preserving the confidentiality of the
27 memorandum or other material.

1 (p) The memorandum ceases to be confidential and privileged
2 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. 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. The
10 form and substance of each supporting memorandum must comply with
11 the commissioner's rules for memorandums subject to Section
12 425.054, or the valuation manual for memorandums subject to Section
13 425.0545.

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

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

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

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

1 is subject to disciplinary action under Chapter 82.

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

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

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

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

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

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

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

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

18 SECTION 15. Subchapter B, Chapter 425, Insurance Code, is
19 amended by adding Sections 425.072, 425.073, 425.074, 425.075,
20 425.076, and 425.077 to read as follows:

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

26 (b) For disability, accident and sickness, and accident and
27 health insurance contracts issued before the operative date of the

1 valuation manual, the minimum standard of valuation is the standard
2 in existence before the operative date of the valuation manual.

3 Sec. 425.073. POLICIES ISSUED ON OR AFTER THE OPERATIVE
4 DATE OF THE VALUATION MANUAL. (a) Except as otherwise provided by
5 this section, for policies issued on or after the operative date of
6 the valuation manual, the standard prescribed by the valuation
7 manual is the minimum standard of valuation required under Section
8 425.0535.

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

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

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

1 (A) life insurance and accident and health annual
2 statements;

3 (B) health annual statements; or

4 (C) fraternal annual statements; and

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

10 (A) the 50 United States;

11 (B) American Samoa;

12 (C) the United States Virgin Islands;

13 (D) the District of Columbia;

14 (E) Guam; and

15 (F) Puerto Rico.

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

26 (1) at least three-fourths of the members of the
27 National Association of Insurance Commissioners voting, but not

1 less than a majority of the total membership; and

2 (2) members of the National Association of Insurance
3 Commissioners representing jurisdictions totaling greater than 75
4 percent of the direct premiums written as reported in the most
5 recently available annual statements as provided by Subsections
6 (b)(2)(A)-(C).

7 (d) The valuation manual must specify:

8 (1) the minimum valuation standards for and
9 definitions of the policies or contracts subject to Section
10 425.0535, including:

11 (A) the commissioners reserve valuation method
12 for life insurance contracts subject to Section 425.0535;

13 (B) the commissioners annuity reserve valuation
14 method for annuity contracts subject to Section 425.0535; and

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

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

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

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

27 and

1 (C) the procedures for corporate governance and
2 oversight of the actuarial function, and a process for appropriate
3 waiver or modification of the procedures;

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

6 (4) the data and form of data required under Section
7 425.075, to whom the data must be submitted, and other desired
8 requirements, including requirements concerning data analyses and
9 reporting of analyses; and

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

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

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

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

26 (f) In the absence of a specific valuation requirement or if
27 a specific valuation requirement in the valuation manual does not

1 in the commissioner's opinion comply with this subchapter, the
2 company shall, with respect to the requirement, comply with minimum
3 valuation standards prescribed by the commissioner by rule.

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

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

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

19 Sec. 425.074. REQUIREMENTS OF A PRINCIPLE-BASED VALUATION.

20 (a) A company shall establish reserves using a principle-based
21 valuation that meets the conditions for policies or contracts
22 provided by the valuation manual. At a minimum, the valuation
23 shall:

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

1 terms of the contracts;

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

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

10 (4) incorporate assumptions:

11 (A) prescribed by the valuation manual; or

12 (B) established:

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

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

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

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

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

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

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

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

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

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

21 Sec. 425.076. CONFIDENTIALITY. (a) In this section,
22 "confidential information" means:

23 (1) a memorandum in support of an opinion submitted
24 under Section 425.0545 and any other documents, materials, and
25 other information, including, but not limited to, all working
26 papers, and copies thereof, created, produced, or obtained by or
27 disclosed to the commissioner or any other person in connection

1 with such memorandum;

2 (2) all documents, materials, and other information,
3 including, but not limited to, all working papers, and copies
4 thereof, created, produced, or obtained by or disclosed to the
5 commissioner or any other person in the course of an examination
6 made under Section 425.073(g); provided, however, that if an
7 examination report or other material prepared in connection with an
8 examination made under Subchapter B, Chapter 401, is not held as
9 private and confidential information under Subchapter B, Chapter
10 401, an examination report or other material prepared in connection
11 with an examination made under Section 425.073(g) shall not be
12 "confidential information" to the same extent as if such
13 examination report or other material had been prepared under
14 Subchapter B, Chapter 401;

15 (3) any reports, documents, materials, and other
16 information developed by a company in support of, or in connection
17 with, an annual certification by the company under Section
18 425.074(b)(2) evaluating the effectiveness of the company's
19 internal controls with respect to a principle-based valuation and
20 any other documents, materials, and other information, including,
21 but not limited to, all working papers, and copies thereof,
22 created, produced, or obtained by or disclosed to the commissioner
23 or any other person in connection with such reports, documents,
24 materials, and other information;

25 (4) any principle-based valuation report developed
26 under Section 425.074(b)(3) and any other documents, materials, and
27 other information, including, but not limited to, all working

1 papers, and copies thereof, created, produced, or obtained by or
2 disclosed to the commissioner or any other person in connection
3 with such report; and

4 (5) any documents, materials, data, and other
5 information submitted by a company under Section 425.075
6 (collectively, "experience data") and any other documents,
7 materials, data, and other information, including, but not limited
8 to, all working papers, and copies thereof, created or produced in
9 connection with such experience data, in each case that include any
10 potentially company-identifying or personally identifiable
11 information, that is provided to or obtained by the commissioner
12 (together with any "experience data," the "experience materials")
13 and any other documents, materials, data, and other information,
14 including, but not limited to, all working papers, and copies
15 thereof, created, produced, or obtained by or disclosed to the
16 commissioner or any other person in connection with such experience
17 materials.

18 (b) Except as provided in this section, a company's
19 confidential information is confidential by law and privileged, and
20 shall not be subject to Chapter 552, Government Code, shall not be
21 subject to subpoena, and shall not be subject to discovery or
22 admissible in evidence in any private civil action; provided,
23 however, that the commissioner is authorized to use the
24 confidential information in the furtherance of any regulatory or
25 legal action brought against the company as a part of the
26 commissioner's official duties.

27 (c) Neither the commissioner nor any person who received

1 confidential information while acting under the authority of the
2 commissioner shall be permitted or required to testify in any
3 private civil action concerning any confidential information.

4 (d) In order to assist in the performance of the
5 commissioner's duties, the commissioner may share confidential
6 information (1) with other state, federal, and international
7 regulatory agencies and with the National Association of Insurance
8 Commissioners and its affiliates and subsidiaries and (2) in the
9 case of confidential information specified in Subsections (a)(1)
10 and (a)(4) only, with the Actuarial Board for Counseling and
11 Discipline or its successor upon request stating that the
12 confidential information is required for the purpose of
13 professional disciplinary proceedings and with state, federal, and
14 international law enforcement officials; in the case of (1) and
15 (2), provided that such recipient agrees, and has the legal
16 authority to agree, to maintain the confidentiality of such
17 documents, materials, data, and other information in the same
18 manner and to the same extent as required for the commissioner.

19 (e) The commissioner may receive documents, materials,
20 data, and other information, including otherwise confidential and
21 privileged documents, materials, data, or information, from the
22 National Association of Insurance Commissioners and its affiliates
23 and subsidiaries, from regulatory or law enforcement officials of
24 other foreign or domestic jurisdictions and from the Actuarial
25 Board for Counseling and Discipline or its successor and shall
26 maintain as confidential any document, material, data, or other
27 information received with notice or the understanding that it is

1 confidential and privileged under the laws of the jurisdiction that
2 is the source of the document, material, data, or other
3 information.

4 (f) The commissioner may enter into agreements governing
5 sharing and use of confidential information consistent with
6 Subsections (b) through (k).

7 (g) No waiver of any applicable privilege or claim of
8 confidentiality in the confidential information shall occur as a
9 result of disclosure to the commissioner under this section or as a
10 result of sharing as authorized in Subsection (d).

11 (h) A privilege established under the law of any state or
12 jurisdiction that is substantially similar to the privilege
13 established under Subsections (b) through (k) shall be available
14 and enforced in any proceeding in, and in any court of, this state.

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

19 (j) Notwithstanding this section, any confidential
20 information specified in Subsections (a)(1) and (a)(4) may be:

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

27 (2) released by the commissioner with the written

1 consent of the company.

2 (k) Once any portion of a memorandum in support of an
3 opinion submitted under Section 425.0545 or a principle-based
4 valuation report developed under Section 425.074(b)(3) is cited by
5 the company in its marketing or is publicly volunteered to or before
6 a governmental agency other than a state insurance department or is
7 released by the company to the news media, all portions of such
8 memorandum or report shall no longer be confidential and
9 privileged.

10 Sec. 425.077. SINGLE STATE EXEMPTION. The commissioner may
11 exempt specific product forms or product lines of a domestic
12 company that is licensed and doing business only in this state from
13 the requirements of Section 425.073 if:

14 (1) the commissioner has issued an exemption in
15 writing to the company and has not subsequently revoked the
16 exemption in writing; and

17 (2) the company computes reserves using assumptions
18 and methods used before the operative date of the valuation manual
19 in addition to any requirements established by the commissioner and
20 adopted by rule.

21 SECTION 16. Subchapter A, Chapter 1105, Insurance Code, is
22 amended by adding Section 1105.0015 to read as follows:

23 Sec. 1105.0015. DEFINITION. In this chapter, "operative
24 date of the valuation manual" means the date, if any, on which the
25 valuation manual described by Subchapter B, Chapter 425 (Standard
26 Valuation Law), becomes operative as provided by that subchapter.

27 SECTION 17. Section 1105.055, Insurance Code, is amended by

1 amending Subsections (h) and (i) and adding Subsections (j), (k),
2 (l), and (m) to read as follows:

3 (h) For a policy issued before the operative date of the
4 valuation manual, any [~~Any~~] ordinary mortality table adopted after
5 1980 by the National Association of Insurance Commissioners that is
6 approved by rules adopted by the commissioner for use in
7 determining the minimum nonforfeiture standard may be substituted
8 for:

9 (1) the Commissioners 1980 Standard Ordinary
10 Mortality Table with or without Ten-Year Select Mortality Factors;
11 or

12 (2) the Commissioners 1980 Extended Term Insurance
13 Table.

14 (i) For a policy issued before the operative date of the
15 valuation manual, any [~~Any~~] industrial mortality table adopted
16 after 1980 by the National Association of Insurance Commissioners
17 that is approved by rules adopted by the commissioner for use in
18 determining the minimum nonforfeiture standard may be substituted
19 for:

20 (1) the Commissioners 1961 Standard Industrial
21 Mortality Table; or

22 (2) the Commissioners 1961 Industrial Extended Term
23 Insurance Table.

24 (j) Except as provided by Subsection (k), for a policy
25 described by Subsection (h) issued on or after the operative date of
26 the valuation manual, the valuation manual must provide the
27 commissioners standard ordinary mortality table for use in

1 determining the minimum nonforfeiture standard that may be
2 substituted for:

3 (1) the Commissioners 1980 Standard Ordinary
4 Mortality Table with or without Ten-Year Select Mortality Factors;
5 or

6 (2) the Commissioners 1980 Extended Term Insurance
7 Table.

8 (k) If the commissioner by rule adopts a commissioners
9 standard ordinary mortality table adopted by the National
10 Association of Insurance Commissioners for use in determining the
11 minimum nonforfeiture standard for policies issued on or after the
12 operative date of the valuation manual, the minimum nonforfeiture
13 standard determined in accordance with that table supersedes the
14 standard provided by the valuation manual.

15 (l) Except as provided by Subsection (m), for a policy
16 described by Subsection (i) issued on or after the operative date of
17 the valuation manual, the valuation manual must include the
18 commissioners standard industrial mortality table for use in
19 determining the minimum nonforfeiture standard that may be
20 substituted for:

21 (1) the 1961 Standard Industrial Mortality Table; or

22 (2) the Commissioners 1961 Industrial Extended Term
23 Insurance Table.

24 (m) If the commissioner by rule adopts a commissioners
25 standard industrial mortality table adopted by the National
26 Association of Insurance Commissioners for use in determining the
27 minimum nonforfeiture standard for policies issued on or after the

1 operative date of the valuation manual, the minimum nonforfeiture
2 standard determined in accordance with that table supersedes the
3 standard provided by the valuation manual.

4 SECTION 18. Section 1105.056, Insurance Code, is amended to
5 read as follows:

6 Sec. 1105.056. NONFORFEITURE INTEREST RATE. (a) For a
7 policy issued before the operative date of the valuation manual,
8 the [The] annual nonforfeiture interest rate for a policy issued in
9 a particular calendar year is equal to 125 percent of the calendar
10 year statutory valuation interest rate for that policy as defined
11 by Subchapter B, Chapter 425, rounded to the nearest one-fourth of
12 one percent, except that the rate may not be less than four percent.

13 (b) For a policy issued on or after the operative date of the
14 valuation manual, the annual nonforfeiture interest rate for any
15 policy issued in a particular calendar year is provided by the
16 valuation manual.

17 SECTION 19. The commissioner of insurance shall determine
18 whether the National Association of Insurance Commissioners and a
19 sufficient number of states and other jurisdictions have adopted a
20 valuation manual as required by Section 425.073(b), Insurance Code,
21 as added by this Act. As soon as practicable after the commissioner
22 of insurance determines that the National Association of Insurance
23 Commissioners and a sufficient number of states and other
24 jurisdictions have adopted the valuation manual as required by that
25 section, the commissioner of insurance shall adopt rules necessary
26 to implement this Act.

27 SECTION 20. This Act takes effect September 1, 2015.