

By: Hancock, Eltife

S.B. No. 1654

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the standard valuation for life insurance, accident and  
3 health insurance, and annuities and the nonforfeiture requirements  
4 of certain life insurance policies.

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

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

9 (a) In this subchapter:

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

14 (2) "Appointed actuary" means a qualified actuary who  
15 is appointed in accordance with the valuation manual to prepare the  
16 actuarial opinion required by Section 425.0545.

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

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

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

1 certificate of authority to write life insurance, accident and  
2 health insurance, or deposit-type contracts in this state.

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

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

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

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

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

25 (9) "Reserves" [~~7~~—"reserves"] means reserve  
26 liabilities.

27 (10) "Tail risk" means a risk that occurs either where

1 the frequency of low probability events is higher than expected  
2 under a normal probability distribution or where there are observed  
3 events of very significant size or magnitude.

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

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

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

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

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

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

27 (c) Instead of valuing the reserves as required by

1 Subsection (a) for a foreign or alien company, the department may  
2 accept any valuation made by or for the insurance supervisory  
3 official of another state or jurisdiction if[+]

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

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

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

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

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

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

1 contracts, and deposit-type contracts of each company issued on or  
2 after the operative date of the valuation manual.

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 (n), (o), and (p), any

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

- 6           (1) disclosure under Chapter 552, Government Code;  
7           (2) subpoena;  
8           (3) discovery; or  
9           (4) admissibility as evidence in a private civil  
10 action.

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

16           (1) The commissioner may:

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

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

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

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

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

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

27 (p) The memorandum ceases to be confidential and privileged

1 if:

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

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

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

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

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

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

27 (b) Unless exempted by the valuation manual, a company



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

12 (c) Each opinion required by this section must:

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

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

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

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

25 (d) In the case of an opinion required to be submitted by a  
26 foreign or alien company, the commissioner may accept the opinion  
27 filed by the company with the insurance supervisory official of

1 another state if the commissioner determines that the opinion  
2 reasonably meets the requirements applicable to a company domiciled  
3 in this state.

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

6 (a) A memorandum [~~that, in form and substance, complies with~~  
7 ~~the commissioner's rules~~] shall be prepared to support each  
8 actuarial opinion required by Section 425.054 or 425.0545. The  
9 form and substance of each supporting memorandum must comply with  
10 the commissioner's rules for memorandums subject to Section  
11 425.054, or the valuation manual for memorandums subject to Section  
12 425.0545.

13 SECTION 9. Section 425.056(a), Insurance Code, is amended  
14 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 in  
2 addition to any requirements established by the commissioner and  
3 adopted by rule.

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

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

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

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

1 statements submitted for 2008:

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

4 (B) health annual statements; or

5 (C) fraternal annual statements; and

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

11 (A) the 50 United States;

12 (B) American Samoa;

13 (C) the United States Virgin Islands;

14 (D) the District of Columbia;

15 (E) Guam; and

16 (F) Puerto Rico.

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

27 (1) at least three-fourths of the members of the

1 National Association of Insurance Commissioners voting, but not  
2 less than a majority of the total membership; and

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

8 (d) The valuation manual must specify:

9 (1) the minimum valuation standards for and  
10 definitions of the policies or contracts subject to Section  
11 425.0535, including:

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

14 (B) the commissioner's annuity reserve valuation  
15 method for annuity contracts subject to Section 425.0535; and

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

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

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

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

1 and

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

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

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

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

16 (6) an exception that allows certain small companies  
17 to continue valuing reserves based on the mortality tables and  
18 interest rates prescribed in the valuation manual for the net  
19 premium reserve and that is substantially similar to an exception  
20 for small companies in the model valuation manual approved by the  
21 National Association of Insurance Commissioners, provided that the  
22 premium threshold to qualify for the exception is not less than:

23 (A) \$300 million of ordinary life premium; or

24 (B) \$600 million of combined ordinary life  
25 premiums if the company is a member of a group of life insurers.

26 (e) For purposes of Subsections (d)(6)(A) and (B), an  
27 ordinary life premium is measured as a direct premium plus

1 reinsurance assumed from an unaffiliated company, as reported in  
2 the prior calendar year statement.

3 (f) With respect to policies that are not subject to a  
4 principle-based valuation under Section 425.074 as described by  
5 Subsection (d)(3), the minimum valuation standard specified in the  
6 valuation manual must:

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

9 (2) develop reserves that quantify the benefits and  
10 guarantees, and the funding, associated with the contracts and  
11 their risks at a level of conservatism that reflects conditions  
12 that include unfavorable events that have a reasonable probability  
13 of occurring.

14 (g) In the absence of a specific valuation requirement or if  
15 a specific valuation requirement in the valuation manual does not  
16 in the commissioner's opinion comply with this subchapter, the  
17 company shall, with respect to the requirement, comply with minimum  
18 valuation standards prescribed by the commissioner by rule.

19 (h) The commissioner may employ or contract with a qualified  
20 actuary, at the expense of the company, to perform an actuarial  
21 examination of the company and provide an opinion concerning the  
22 appropriateness of any reserve assumption or method used by the  
23 company, or to review and provide an opinion on a company's  
24 compliance with any requirement of this subchapter. The  
25 commissioner may rely on the opinion, regarding provisions  
26 contained within this subchapter, of a qualified actuary engaged by  
27 the insurance supervisory official of another state.



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

5       (j) The commissioner may take other disciplinary action as  
6 permitted under Chapter 82.

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

8       (a) A company shall establish reserves using a principle-based  
9 valuation that meets the conditions for policies or contracts  
10 provided by the valuation manual. At a minimum, the valuation  
11 shall:

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

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

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

25               (4) incorporate assumptions:

26                       (A) prescribed by the valuation manual; or

27                       (B) established:

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

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

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

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

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

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

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

23                  (c) A company's internal controls with respect to the  
24 principle-based valuation must be designed to ensure that all  
25 material risks inherent in the liabilities and associated assets  
26 subject to the valuation are included in the valuation, and that  
27 valuations are made in accordance with the valuation manual. The

1 certification described by Subsection (b)(2) must be based on the  
2 controls in place as of the end of the preceding calendar year.

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

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

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

11 (1) a memorandum in support of an opinion submitted  
12 under Section 425.0545 and any other documents, materials, and  
13 other information, including, but not limited to, all working  
14 papers, and copies thereof, created, produced, or obtained by or  
15 disclosed to the commissioner or any other person in connection  
16 with such memorandum;

17 (2) all documents, materials, and other information,  
18 including, but not limited to, all working papers, and copies  
19 thereof, created, produced, or obtained by or disclosed to the  
20 commissioner or any other person in the course of an examination  
21 made under Section 425.073(h); provided, however, that if an  
22 examination report or other material prepared in connection with an  
23 examination made under Subchapter B, Chapter 401, is not held as  
24 private and confidential information under Subchapter B, Chapter  
25 401, an examination report or other material prepared in connection  
26 with an examination made under Section 425.073(h) shall not be  
27 "confidential information" to the same extent as if such

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

3 (3) any reports, documents, materials, and other  
4 information developed by a company in support of, or in connection  
5 with, an annual certification by the company under Section  
6 425.074(b)(2) evaluating the effectiveness of the company's  
7 internal controls with respect to a principle-based valuation and  
8 any other documents, materials, and other information, including,  
9 but not limited to, all working papers, and copies thereof,  
10 created, produced, or obtained by or disclosed to the commissioner  
11 or any other person in connection with such reports, documents,  
12 materials, and other information;

13 (4) any principle-based valuation report developed  
14 under Section 425.074(b)(3) and any other documents, materials, and  
15 other information, including, but not limited to, all working  
16 papers, and copies thereof, created, produced, or obtained by or  
17 disclosed to the commissioner or any other person in connection  
18 with such report; and

19 (5) any documents, materials, data, and other  
20 information submitted by a company under Section 425.075  
21 (collectively, "experience data") and any other documents,  
22 materials, data, and other information, including, but not limited  
23 to, all working papers, and copies thereof, created or produced in  
24 connection with such experience data, in each case that include any  
25 potentially company-identifying or personally identifiable  
26 information, that is provided to or obtained by the commissioner  
27 (together with any "experience data," the "experience materials")

1 and any other documents, materials, data, and other information,  
2 including, but not limited to, all working papers, and copies  
3 thereof, created, produced, or obtained by or disclosed to the  
4 commissioner or any other person in connection with such experience  
5 materials.

6 (b) Except as provided in this section, a company's  
7 confidential information is confidential by law and privileged, and  
8 shall not be subject to Chapter 552, Government Code, shall not be  
9 subject to subpoena, and shall not be subject to discovery or  
10 admissible in evidence in any private civil action; provided,  
11 however, that the commissioner is authorized to use the  
12 confidential information in the furtherance of any regulatory or  
13 legal action brought against the company as a part of the  
14 commissioner's official duties.

15 (c) Neither the commissioner nor any person who received  
16 confidential information while acting under the authority of the  
17 commissioner shall be permitted or required to testify in any  
18 private civil action concerning any confidential information.

19 (d) In order to assist in the performance of the  
20 commissioner's duties, the commissioner may share confidential  
21 information (1) with other state, federal, and international  
22 regulatory agencies and with the National Association of Insurance  
23 Commissioners and its affiliates and subsidiaries and (2) in the  
24 case of confidential information specified in Subsections (a)(1)  
25 and (a)(4) only, with the Actuarial Board for Counseling and  
26 Discipline or its successor upon request stating that the  
27 confidential information is required for the purpose of

1 professional disciplinary proceedings and with state, federal, and  
2 international law enforcement officials; in the case of (1) and  
3 (2), provided that such recipient agrees, and has the legal  
4 authority to agree, to maintain the confidentiality and privileged  
5 status of such documents, materials, data, and other information in  
6 the same manner and to the same extent as required for the  
7 commissioner.

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

20 (f) The commissioner may enter into agreements governing  
21 sharing and use of information consistent with Subsections (b)  
22 through (k).

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

27 (h) A privilege established under the law of any state or

1 jurisdiction that is substantially similar to the privilege  
2 established under Subsections (b) through (k) shall be available  
3 and enforced in any proceeding in, and in any court of, this state.

4 (i) In this section, a reference to a regulatory agency, law  
5 enforcement agency, or the National Association of Insurance  
6 Commissioners includes an employee, agent, consultant, or  
7 contractor of the agency or association, as applicable.

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

10 (1) subject to subpoena for the purpose of defending  
11 an action seeking damages from the appointed actuary submitting the  
12 related memorandum in support of an opinion submitted under Section  
13 425.0545 or a principle-based valuation report developed under  
14 Section 425.074(b)(3) by reason of an action required by this  
15 subchapter or by rules adopted under this subchapter; and

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

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

26 Sec. 425.077. SINGLE STATE EXEMPTION. The commissioner may  
27 exempt specific product forms or product lines of a domestic

1 company that is licensed and doing business only in this state from  
2 the requirements of Section 425.073 if:

3 (1) the commissioner has issued an exemption in  
4 writing to the company and has not subsequently revoked the  
5 exemption in writing; and

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

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

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

16 SECTION 17. Section 1105.055, Insurance Code, is amended by  
17 amending Subsections (h) and (i) and adding Subsections (j), (k),  
18 (l), and (m) to read as follows:

19 (h) For a policy issued before the operative date of the  
20 valuation manual, any [Any] ordinary mortality table adopted after  
21 1980 by the National Association of Insurance Commissioners that is  
22 approved by rules adopted by the commissioner for use in  
23 determining the minimum nonforfeiture standard may be substituted  
24 for:

25 (1) the Commissioners 1980 Standard Ordinary  
26 Mortality Table with or without Ten-Year Select Mortality Factors;  
27 or



1           (2) the Commissioners 1980 Extended Term Insurance  
2 Table.

3           (i) For a policy issued before the operative date of the  
4 valuation manual, any [Any] industrial mortality table adopted  
5 after 1980 by the National Association of Insurance Commissioners  
6 that is 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 1961 Standard Industrial  
10 Mortality Table; or

11           (2) the Commissioners 1961 Industrial Extended Term  
12 Insurance Table.

13           (j) Except as provided by Subsection (k), for a policy  
14 described by Subsection (h) issued on or after the operative date of  
15 the valuation manual, the valuation manual must provide the  
16 commissioners standard ordinary mortality table for use in  
17 determining the minimum nonforfeiture standard that may be  
18 substituted for:

19           (1) the Commissioners 1980 Standard Ordinary  
20 Mortality Table with or without Ten-Year Select Mortality Factors;  
21 or

22           (2) the Commissioners 1980 Extended Term Insurance  
23 Table.

24           (k) If the commissioner by rule adopts a commissioners  
25 standard ordinary 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 (1) Except as provided by Subsection (m), for a policy  
5 described by Subsection (i) issued on or after the operative date of  
6 the valuation manual, the valuation manual must include the  
7 commissioners standard industrial mortality table for use in  
8 determining the minimum nonforfeiture standard that may be  
9 substituted for:

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

11 (2) the Commissioners 1961 Industrial Extended Term  
12 Insurance Table.

13 (m) If the commissioner by rule adopts a commissioners  
14 standard industrial mortality table adopted by the National  
15 Association of Insurance Commissioners for use in determining the  
16 minimum nonforfeiture standard for policies issued on or after the  
17 operative date of the valuation manual, the minimum nonforfeiture  
18 standard determined in accordance with that table supersedes the  
19 standard provided by the valuation manual.

20 SECTION 18. Section 1105.056, Insurance Code, is amended to  
21 read as follows:

22 Sec. 1105.056. NONFORFEITURE INTEREST RATE. (a) For a  
23 policy issued before the operative date of the valuation manual,  
24 the [The] annual nonforfeiture interest rate for a policy issued in  
25 a particular calendar year is equal to 125 percent of the calendar  
26 year statutory valuation interest rate for that policy as defined  
27 by Subchapter B, Chapter 425, rounded to the nearest one-fourth of

1 one percent, except that the rate may not be less than four percent.

2 (b) For a policy issued on or after the operative date of the  
3 valuation manual, the annual nonforfeiture interest rate for any  
4 policy issued in a particular calendar year is provided by the  
5 valuation manual.

6 SECTION 19. The commissioner of insurance shall determine  
7 whether the National Association of Insurance Commissioners and a  
8 sufficient number of states and other jurisdictions have adopted a  
9 valuation manual as required by Section 425.073(b), Insurance Code,  
10 as added by this Act. As soon as practicable after the commissioner  
11 of insurance determines that the National Association of Insurance  
12 Commissioners and a sufficient number of states and other  
13 jurisdictions have adopted the valuation manual as required by that  
14 section, the commissioner of insurance shall adopt rules necessary  
15 to implement this Act.

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