

By: Phillips

H.B. No. 3220

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of insurance holding company systems,
including internationally active insurance groups; authorizing a
fee.

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

SECTION 1. Section [823.002](#), Insurance Code, is amended by
adding Subdivisions (4-b) and (6-a) to read as follows:

(4-b) "Group-wide supervisor" means the regulatory
official authorized to engage in conducting and coordinating
group-wide supervision activities who is determined or
acknowledged by the commissioner under Section 823.0147 to have
sufficient significant contacts with the internationally active
insurance group.

(6-a) "Internationally active insurance group" means
an insurance holding company system that:

(A) includes an insurer registered under
Subchapter B; and

(B) meets the following criteria:

(i) has premiums written in at least three
countries;

(ii) has a percentage of gross premiums
written outside the United States of at least 10 percent of the
insurance holding company system's total gross written premiums;
and

1 (iii) based on a three-year rolling
2 average, has total assets of at least \$50 billion or total gross
3 written premiums of at least \$10 billion.

4 SECTION 2. Sections 823.011(a), (d), and (d-1), Insurance
5 Code, are amended to read as follows:

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

8 (1) reported or otherwise provided under Subchapter B
9 or C or Section 823.201(d) or (e) or Section 823.0147;

10 (2) disclosed to the commissioner under Section
11 823.010; or

12 (3) obtained by or disclosed to the commissioner or
13 another person in the course of an examination or investigation
14 under Subchapter H or Chapter 401.

15 (d) Except as provided by Subsection (e), if the recipient
16 of documents or other information described by Subsection (a)
17 agrees in writing to maintain the confidential and privileged
18 status of the documents or other information, and verifies in
19 writing the legal authority to maintain the confidential and
20 privileged status of the documents or information, the commissioner
21 or another person may disclose the information to any of the
22 following entities functioning in an official capacity:

23 (1) a commissioner of insurance or an insurance
24 department of another state;

25 (2) an authorized law enforcement official;

26 (3) a district attorney of this state;

27 (4) the attorney general;

(5) a grand jury;

(6) members of a supervisory college described by Section 823.0145;

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

(8) another state, federal, or international regulatory agency.

(d-1) The commissioner may receive documents or information, including otherwise confidential and privileged documents or information, from the entities listed in Subsection (d)[7] and shall maintain as confidential or privileged any document or information received by the commissioner with notice or an understanding that the document or information is confidential or privileged under the laws of the jurisdiction of the entity that provides the document or information.

SECTION 3. Subchapter A, Chapter 823, Insurance Code, is amended by adding Section 823.0147 to read as follows:

Sec. 823.0147. GROUP-WIDE SUPERVISION OF INTERNATIONALLY ACTIVE INSURANCE GROUPS. (a) The commissioner is authorized to act as the group-wide supervisor for any internationally active insurance group under the provisions of this section.

(b) The commissioner may otherwise acknowledge another regulatory official as the group-wide supervisor where the internationally active insurance group:

(1) does not have substantial insurance operations in the United States;

(2) has substantial insurance operations in the United

1 States, but not in this state; or

2 (3) has substantial insurance operations in the United
3 States and this state, but the commissioner has determined under
4 the factors in Subsections (e) and (k) that the other regulatory
5 official is the appropriate group-wide supervisor.

6 (c) An insurance holding company system that does not
7 otherwise qualify as an internationally active insurance group may
8 request that the commissioner make a determination or
9 acknowledgment as to a group-wide supervisor under this section.

10 (d) In cooperation with other state, federal, and
11 international regulatory agencies, the commissioner will identify
12 a single group-wide supervisor for an internationally active
13 insurance group. The commissioner may determine that the
14 commissioner is the appropriate group-wide supervisor for an
15 internationally active insurance group that conducts substantial
16 insurance operations concentrated in this state. The commissioner
17 may acknowledge that a regulatory official from another
18 jurisdiction is the appropriate group-wide supervisor for the
19 internationally active insurance group.

20 (e) The commissioner shall consider the following factors
21 when making a determination or acknowledgment under Subsection (d):

22 (1) the place of domicile of the insurers within the
23 internationally active insurance group that hold the largest share
24 of the group's written premiums, assets, or liabilities;

25 (2) the place of domicile of the top-tiered insurers
26 in the insurance holding company system of the internationally
27 active insurance group;

1 (3) the location of the executive offices or largest
2 operational offices of the internationally active insurance group;

3 (4) whether another regulatory official is acting or
4 is seeking to act as the group-wide supervisor under a regulatory
5 system that the commissioner determines to be:

6 (A) substantially similar to the system of
7 regulation provided under the laws of this state; or

8 (B) otherwise sufficient in terms of providing
9 for group-wide supervision, enterprise risk analysis, and
10 cooperation with other regulatory officials; and

11 (5) whether another regulatory official acting or
12 seeking to act as the group-wide supervisor provides the
13 commissioner with reasonably reciprocal recognition and
14 cooperation.

15 (f) A commissioner identified under this section as the
16 group-wide supervisor may determine that it is appropriate to
17 acknowledge another supervisor to serve as the group-wide
18 supervisor. The acknowledgment of the group-wide supervisor shall
19 be made after consideration of the factors listed in Subsection
20 (e), and shall be made in cooperation with and subject to the
21 acknowledgment of other regulatory officials involved with
22 supervision of members of the internationally active insurance
23 group, and in consultation with the internationally active
24 insurance group.

25 (g) Notwithstanding any other provision of law, when
26 another regulatory official is acting as the group-wide supervisor
27 of an internationally active insurance group, the commissioner

1 shall acknowledge that regulatory official as the group-wide
2 supervisor.

3 (h) The commissioner shall make a determination or
4 acknowledgment as to the appropriate group-wide supervisor for an
5 internationally active insurance group under Subsection (d) or (f)
6 in the event of a material change in the internationally active
7 insurance group that results in:

8 (1) the internationally active insurance group's
9 insurers domiciled in this state holding the largest share of the
10 group's premiums, assets, or liabilities; or

11 (2) this state being the place of domicile of the
12 top-tiered insurers in the insurance holding company system of the
13 internationally active insurance group.

14 (i) Under Subchapter H, the commissioner is authorized to
15 collect from any insurer registered under Subchapter B all
16 information necessary to determine whether the commissioner may act
17 as the group-wide supervisor of an internationally active insurance
18 group or if the commissioner may acknowledge another regulatory
19 official to act as the group-wide supervisor. Prior to issuing a
20 determination that an internationally active insurance group is
21 subject to group-wide supervision by the commissioner, the
22 commissioner shall notify the insurer registered under Subchapter B
23 and the ultimate controlling person within the internationally
24 active insurance group. The internationally active insurance group
25 shall have not less than 30 days to provide the commissioner with
26 additional information pertinent to the pending determination. The
27 commissioner may publish on the department's website the identity

of internationally active insurance groups that the commissioner has determined are subject to group-wide supervision by the commissioner.

(j) If the commissioner is the group-wide supervisor for an internationally active insurance group, the commissioner is authorized to engage in any of the following group-wide supervision activities:

(1) assess the enterprise risks within the internationally active insurance group to ensure that:

(A) the material financial condition and liquidity risks to the members of the internationally active insurance group that are engaged in the business of insurance are identified by management; and

(B) reasonable and effective mitigation measures are in place;

(2) request, from any member of an internationally active insurance group subject to the commissioner's supervision, information necessary and appropriate to assess enterprise risk, including information about the members of the internationally active insurance group regarding:

(A) governance, risk assessment, and management;

(B) capital adequacy; and

(C) material intercompany transactions;

(3) coordinate and, through the authority of the regulatory officials of the jurisdictions where members of the internationally active insurance group are domiciled, compel development and implementation of reasonable measures designed to

1 ensure that the internationally active insurance group is able to
2 timely recognize and mitigate enterprise risks to members of the
3 internationally active insurance group that are engaged in the
4 business of insurance;

5 (4) communicate with other state, federal, and
6 international regulatory agencies for members within the
7 internationally active insurance group and share relevant
8 information, subject to the confidentiality provisions of Section
9 823.011, through supervisory colleges in Section 823.0145 or
10 otherwise;

11 (5) enter into agreements with or obtain documentation
12 from any insurer registered under Subchapter B, any member of the
13 internationally active insurance group, and any other state,
14 federal, and international regulatory agencies for members of the
15 internationally active insurance group, providing the basis for or
16 otherwise clarifying the commissioner's role as group-wide
17 supervisor, including provisions for resolving disputes with other
18 regulatory officials, provided that such agreements or
19 documentation may not serve as evidence in any proceeding to show
20 that any insurer or person within an insurance holding company
21 system not domiciled or incorporated in this state is doing
22 business in this state or is otherwise subject to jurisdiction in
23 this state; and

24 (6) other group-wide supervision activities,
25 consistent with the authorities and purposes enumerated above, as
26 considered necessary by the commissioner.

27 (k) If the commissioner acknowledges that another

1 regulatory official from a jurisdiction that is not accredited by
2 the National Association of Insurance Commissioners is the
3 group-wide supervisor, the commissioner is authorized to
4 reasonably cooperate, through supervisory colleges or otherwise,
5 with group-wide supervision undertaken by the group-wide
6 supervisor, provided that:

7 (1) the commissioner's cooperation is in compliance
8 with the laws of this state; and

9 (2) the regulatory official acknowledged as the
10 group-wide supervisor also recognizes and cooperates with the
11 commissioner's activities as a group-wide supervisor for other
12 internationally active insurance groups where applicable.

13 (1) Where recognition and cooperation are not reasonably
14 reciprocal under Subsection (k)(2), the commissioner is authorized
15 to refuse recognition and cooperation.

16 (m) The commissioner is authorized to enter into agreements
17 with or obtain documentation from any insurer registered under
18 Subchapter B, any affiliate of the insurer, and other state,
19 federal, and international regulatory agencies for members of the
20 internationally active insurance group that provides the basis for
21 or otherwise clarifies a regulatory official's role as group-wide
22 supervisor.

23 (n) The commissioner may adopt rules necessary for the
24 administration of this section.

25 (o) A registered insurer subject to this section shall be
26 liable for and shall pay the reasonable expenses of the
27 commissioner's participation in the administration of this

1 section, including the engagement of attorneys, actuaries, and any
2 other professionals and all reasonable travel expenses.

3 SECTION 4. Section 823.054(b), Insurance Code, is amended
4 to read as follows:

5 (b) If the amount of a single transaction or the total
6 amount of all transactions involving sales, purchases, exchanges,
7 loans or other extensions of credit, or investments is more than
8 ~~[the lesser of]~~ one-half of one percent of an insurer's admitted
9 assets ~~[or five percent of an insurer's surplus,]~~ as of December 31
10 of the year preceding the date of the transaction or transactions,
11 the transaction or transactions, respectively, are considered to be
12 material for purposes of this section.

13 SECTION 5. (a) Section 823.011, Insurance Code, as amended
14 by this Act, applies only to information, including documents and
15 copies of documents, obtained by or reported, disclosed, or
16 otherwise provided to the commissioner of insurance on or after the
17 effective date of this Act. Information, including documents and
18 copies of documents, obtained by or reported, disclosed, or
19 otherwise provided to the commissioner of insurance before the
20 effective date of this Act is governed by the law in effect on the
21 date the transaction occurred, and the former law is continued in
22 effect for that purpose.

23 (b) Section 823.054, Insurance Code, as amended by this Act,
24 applies only to a transaction that occurs on or after the effective
25 date of this Act. A transaction that occurs before the effective
26 date of this Act is governed by the law in effect on the date the
27 transaction occurred, and the former law is continued in effect for

1 that purpose.

2 SECTION 6. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2017.