

By: Hancock

S.B. No. 1071

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the regulation of insurance holding company systems,  
3 including internationally active insurance groups; authorizing a  
4 fee.

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

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

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

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

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

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

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

- 1           (1) a commissioner of insurance or an insurance  
2 department of another state;
- 3           (2) an authorized law enforcement official;
- 4           (3) a district attorney of this state;
- 5           (4) the attorney general;
- 6           (5) a grand jury;
- 7           (6) members of a supervisory college described by  
8 Section 823.0145;
- 9           (7) the National Association of Insurance  
10 Commissioners and its affiliates and subsidiaries; or
- 11          (8) another state, federal, or international  
12 regulatory agency.

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

21          SECTION 2. Section 823.054(b), Insurance Code, is amended  
22 to read as follows:

23          (b) If the amount of a single transaction or the total  
24 amount of all transactions involving sales, purchases, exchanges,  
25 loans or other extensions of credit, or investments is more than  
26 [~~the lesser of~~] one-half of one percent of an insurer's admitted  
27 assets [~~or five percent of an insurer's surplus,~~] as of December 31

1 of the year preceding the date of the transaction or transactions,  
2 the transaction or transactions, respectively, are considered to be  
3 material for purposes of this section.

4 SECTION 3. Chapter 823, Insurance Code, is amended by  
5 adding Subchapter I-1 to read as follows:

6 SUBCHAPTER I-1. GROUP-WIDE SUPERVISION OF INTERNATIONALLY ACTIVE  
7 INSURANCE GROUPS

8 Sec. 823.421. DEFINITIONS. In this subchapter:

9 (1) "Foreign regulatory official" means a  
10 governmental official of another state or country who is authorized  
11 to regulate an internationally active insurance group in accordance  
12 with this subchapter.

13 (2) "Group-wide supervisor" means the regulatory  
14 official designated by the commissioner to have sufficient  
15 significant contacts with an internationally active insurance  
16 group to conduct and coordinate group-wide supervision activities  
17 for the internationally active insurance group under this  
18 subchapter.

19 (3) "Internationally active insurance group" means an  
20 insurance holding company system described by Section 823.422 and  
21 includes an insurer registered under Subchapter B.

22 Sec. 823.422. CLASSIFICATION AS INTERNATIONALLY ACTIVE  
23 INSURANCE GROUP. (a) For purposes of this subchapter and except as  
24 provided by Subsection (c), an insurance holding company system is  
25 an internationally active insurance group if the insurance holding  
26 company system:

27 (1) writes premiums in at least three countries;

1           (2) writes at least 10 percent of the insurance  
2 holding company system's total gross written premiums outside the  
3 United States; and

4           (3) for the period described by Subsection (b):

5           (A) has average total assets of at least \$50  
6 billion; or

7           (B) writes total gross premiums of an average of  
8 at least \$10 billion.

9           (b) The period applicable to Subsection (a)(3) is:

10           (1) the three most recent fiscal years of the  
11 insurance holding company system that precede the fiscal year in  
12 which the determination under this section is made; or

13           (2) if the insurance holding company system has been  
14 in operation for less than the period described by Subdivision (1),  
15 the period for which the insurance holding company system has been  
16 in operation.

17           (c) The commissioner may waive a requirement described by  
18 Subsection (a) in determining an insurance holding company system  
19 to be an internationally active insurance group if the commissioner  
20 determines that the insurance holding company system substantially  
21 satisfies Subsection (a).

22           (d) The commissioner may publish on the department's  
23 Internet website a list of insurance holding company systems  
24 classified as internationally active insurance groups under this  
25 section.

26           Sec. 823.423. DESIGNATION OF GROUP-WIDE SUPERVISOR. (a)  
27 In cooperation with other state, federal, and international

1 regulatory agencies and in consultation with the internationally  
2 active insurance group, the commissioner shall designate a single  
3 group-wide supervisor for each group in accordance with this  
4 subchapter. The commissioner may not designate a group-wide  
5 supervisor before the period for additional information under  
6 Section 823.425 has expired.

7 (b) The commissioner shall designate the commissioner or a  
8 foreign regulatory official as the group-wide supervisor under  
9 Subsection (a).

10 (c) At the request of an insurance holding company system  
11 registered under Subchapter B that does not otherwise meet the  
12 requirements of an internationally active insurance group under  
13 Section 823.422, the commissioner may designate a group-wide  
14 supervisor for the insurance holding company system in accordance  
15 with this subchapter.

16 Sec. 823.424. INFORMATION FOR DESIGNATION. The  
17 commissioner may order the production of information in accordance  
18 with Subchapter H necessary to make a designation under Section  
19 823.423 from an insurer registered under Subchapter B that is part  
20 of the internationally active insurance group.

21 Sec. 823.425. NOTICE OF DESIGNATION; ADDITIONAL  
22 INFORMATION FOR DESIGNATION. (a) In this section, "ultimate  
23 controlling person" means the person in an internationally active  
24 insurance group who is not controlled by another person.

25 (b) Before making a designation under Section 823.423, the  
26 commissioner shall provide written notice that the commissioner is  
27 making a designation under that section to:

1           (1) each insurer registered under Subchapter B that is  
2 a member of the insurance holding company system to be designated as  
3 an internationally active insurance group; and

4           (2) the ultimate controlling person of the insurance  
5 holding company system.

6           (c) The insurance holding company system to be designated as  
7 an internationally active insurance group shall provide any  
8 additional information to the commissioner for a designation under  
9 Section 823.423 not later than the 30th day after the date the group  
10 receives the notice described by Subsection (b).

11           Sec. 823.426. DESIGNATION OF COMMISSIONER. (a) The  
12 commissioner may designate the commissioner as the group-wide  
13 supervisor for any internationally active insurance group under  
14 Section 823.423.

15           (b) Except as provided by Section 823.427, the commissioner  
16 shall designate the commissioner as the group-wide supervisor of an  
17 internationally active insurance group under Section 823.423 if the  
18 group conducts substantial insurance operations in this state.

19           Sec. 823.427. DESIGNATION OF FOREIGN REGULATORY OFFICIAL.  
20 (a) The commissioner shall designate a foreign regulatory official  
21 as the group-wide supervisor under Section 823.423 if the foreign  
22 regulatory official acts as the group-wide supervisor.

23           (b) The commissioner may designate a foreign regulatory  
24 official as the group-wide supervisor under Section 823.423 if:

25           (1) the foreign regulatory official consents to the  
26 designation; and

27           (2) the internationally active insurance group:

1           (A) does not have substantial insurance  
2 operations in this state; or

3           (B) has substantial insurance operations in this  
4 state, but the commissioner has determined that the foreign  
5 regulatory official is a more appropriate supervisor in accordance  
6 with this section.

7       (c) In determining whether a foreign regulatory official is  
8 a more appropriate group-wide supervisor under Subsection  
9 (b)(2)(B), the commissioner shall consider:

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

13           (2) the place of domicile of the top-tiered insurers  
14 in the insurance holding company system of the internationally  
15 active insurance group;

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

18           (4) whether a foreign regulatory official is acting or  
19 is seeking to act as the group-wide supervisor under a regulatory  
20 system that the commissioner determines to be:

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

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

26           (5) whether a foreign regulatory official acting or  
27 seeking to act as the group-wide supervisor provides the

1 commissioner with reasonably reciprocal recognition and  
2 cooperation.

3 Sec. 823.428. CHANGE OF DESIGNATION. The commissioner may  
4 change the designation of a foreign regulatory official as the  
5 group-wide supervisor under Section 823.423 in the event of a  
6 material change that results in:

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

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

13 Sec. 823.429. POWERS OF COMMISSIONER AS GROUP-WIDE  
14 SUPERVISOR. (a) This section applies only to an internationally  
15 active insurance group for which the commissioner is designated as  
16 the group-wide supervisor.

17 (b) The commissioner may assess the enterprise risks within  
18 the internationally active insurance group to ensure that:

19 (1) the material financial condition and liquidity  
20 risks to the members of the group that are engaged in the business  
21 of insurance are identified by management; and

22 (2) reasonable and effective mitigation measures are  
23 in place.

24 (c) The commissioner may request from any member of the  
25 internationally active insurance group information necessary and  
26 appropriate to assess enterprise risk, including information about  
27 the members of the group regarding:



1           (1) governance, risk assessment, and management;

2           (2) capital adequacy; and

3           (3) material intercompany transactions.

4           (d) The commissioner may coordinate and, through the  
5 authority of the regulatory officials of the jurisdictions in which  
6 members of the internationally active insurance group are  
7 domiciled, compel development and implementation of reasonable  
8 measures designed to ensure that the group is able to timely  
9 recognize and mitigate enterprise risks to members of the group  
10 that are engaged in the business of insurance.

11           (e) The commissioner may communicate with other state,  
12 federal, and international regulatory agencies for members of the  
13 internationally active insurance group and share relevant  
14 information subject to Section 823.011, through supervisory  
15 colleges described by Section 823.0145 or otherwise.

16           (f) The commissioner may enter into agreements, including  
17 an agreement for resolving disputes with other regulatory  
18 officials, with or obtain documentation related to the  
19 commissioner's role as group-wide supervisor from:

20           (1) any insurer registered under Subchapter B;

21           (2) any member of the internationally active insurance  
22 group; and

23           (3) any other state, federal, or international  
24 agencies regulating members of the internationally active  
25 insurance group.

26           (g) The commissioner may perform any other group-wide  
27 supervision activity consistent with this subchapter or considered

1 necessary by the commissioner for the administration of this  
2 subchapter.

3 (h) An agreement entered into or documentation obtained  
4 under Subsection (f) may not be used as evidence in any proceeding  
5 to show that any foreign insurer or person within an insurance  
6 holding company system is doing business in this state or is  
7 otherwise subject to this state's jurisdiction.

8 Sec. 823.430. POWERS OF COMMISSIONER WHEN FOREIGN  
9 REGULATORY OFFICIAL IS GROUP-WIDE SUPERVISOR. (a) This section  
10 applies only to an internationally active insurance group for which  
11 a foreign regulatory official is designated as the group-wide  
12 supervisor under Section 823.423.

13 (b) The commissioner may enter into agreements with or  
14 obtain documentation from any insurer registered under Subchapter  
15 B, any affiliate of the insurer, and other state, federal, and  
16 international regulatory agencies for members of the  
17 internationally active insurance group to obtain information  
18 related to the foreign regulatory official's role as group-wide  
19 supervisor.

20 (c) If the commissioner designates a foreign regulatory  
21 official from a jurisdiction that is not accredited by the National  
22 Association of Insurance Commissioners as the group-wide  
23 supervisor under Section 823.423, the commissioner may reasonably  
24 cooperate with regulatory actions taken by the supervisor, through  
25 supervisory colleges described by Section 823.0145 or otherwise,  
26 if:

27 (1) the commissioner's cooperation is in compliance

1 with the laws of this state; and

2 (2) where applicable, the foreign regulatory official  
3 also recognizes and cooperates with the commissioner's regulatory  
4 actions as a group-wide supervisor for other internationally active  
5 insurance groups.

6 (d) Where recognition and cooperation under Subsection  
7 (c)(2) is not reasonably reciprocal, the commissioner may refuse  
8 recognition of and cooperation with the foreign regulatory  
9 official's regulatory action.

10 Sec. 823.431. EXPENSES OF COMMISSIONER. A registered  
11 insurer subject to this subchapter shall pay the reasonable  
12 expenses of the commissioner's participation in the administration  
13 of this subchapter, including the engagement of attorneys,  
14 actuaries, and other professionals and reasonable travel expenses.

15 SECTION 4. (a) Section 823.011, Insurance Code, as amended  
16 by this Act, applies only to information, including documents and  
17 copies of documents, obtained by or reported, disclosed, or  
18 otherwise provided to the commissioner of insurance on or after the  
19 effective date of this Act. Information, including documents and  
20 copies of documents, obtained by or reported, disclosed, or  
21 otherwise provided to the commissioner of insurance before the  
22 effective date of this Act is governed by the law in effect on the  
23 date the transaction occurred, and the former law is continued in  
24 effect for that purpose.

25 (b) Section 823.054, Insurance Code, as amended by this Act,  
26 applies only to a transaction that occurs on or after the effective  
27 date of this Act. A transaction that occurs before the effective

1 date of this Act is governed by the law in effect on the date the  
2 transaction occurred, and the former law is continued in effect for  
3 that purpose.

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