

1-1 By: Phillips (Senate Sponsor - Hancock) H.B. No. 3220
 1-2 (In the Senate - Received from the House May 1, 2017;
 1-3 May 2, 2017, read first time and referred to Committee on
 1-4 Administration; May 2, 2017, reported favorably by the following
 1-5 vote: Yeas 6, Nays 0; May 2, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Kolkhorst	X			
1-8 Burton	X			
1-9 Huffines	X			
1-10 Hughes	X			
1-11 Nichols			X	
1-12 West	X			
1-13 Zaffirini	X			

1-15 A BILL TO BE ENTITLED
 1-16 AN ACT

1-17 relating to the regulation of insurance holding company systems,
 1-18 including internationally active insurance groups; authorizing a
 1-19 fee.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. Section 823.002, Insurance Code, is amended by
 1-22 adding Subdivisions (4-b) and (6-a) to read as follows:

1-23 (4-b) "Group-wide supervisor" means the regulatory
 1-24 official authorized to engage in conducting and coordinating
 1-25 group-wide supervision activities who is determined or
 1-26 acknowledged by the commissioner under Section 823.0147 to have
 1-27 sufficient significant contacts with the internationally active
 1-28 insurance group.

1-29 (6-a) "Internationally active insurance group" means
 1-30 an insurance holding company system that:

1-31 (A) includes an insurer registered under
 1-32 Subchapter B; and

1-33 (B) meets the following criteria:
 1-34 (i) has premiums written in at least three
 1-35 countries;

1-36 (ii) has a percentage of gross premiums
 1-37 written outside the United States of at least 10 percent of the
 1-38 insurance holding company system's total gross written premiums;
 1-39 and

1-40 (iii) based on a three-year rolling
 1-41 average, has total assets of at least \$50 billion or total gross
 1-42 written premiums of at least \$10 billion.

1-43 SECTION 2. Sections 823.011(a), (d), and (d-1), Insurance
 1-44 Code, are amended to read as follows:

1-45 (a) This section applies only to information, including
 1-46 documents and copies of documents, that is:

1-47 (1) reported or otherwise provided under Subchapter B
 1-48 or C or Section 823.201(d) or (e) or Section 823.0147;

1-49 (2) disclosed to the commissioner under Section
 1-50 823.010; or

1-51 (3) obtained by or disclosed to the commissioner or
 1-52 another person in the course of an examination or investigation
 1-53 under Subchapter H or Chapter 401.

1-54 (d) Except as provided by Subsection (e), if the recipient
 1-55 of documents or other information described by Subsection (a)
 1-56 agrees in writing to maintain the confidential and privileged
 1-57 status of the documents or other information, and verifies in
 1-58 writing the legal authority to maintain the confidential and
 1-59 privileged status of the documents or information, the commissioner
 1-60 or another person may disclose the information to any of the
 1-61 following entities functioning in an official capacity:

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

2-13 (d-1) The commissioner may receive documents or
 2-14 information, including otherwise confidential and privileged
 2-15 documents or information, from the entities listed in Subsection
 2-16 (d) [7] and shall maintain as confidential or privileged any
 2-17 document or information received by the commissioner with notice or
 2-18 an understanding that the document or information is confidential
 2-19 or privileged under the laws of the jurisdiction of the entity that
 2-20 provides the document or information.

2-21 SECTION 3. Subchapter A, Chapter 823, Insurance Code, is
 2-22 amended by adding Section 823.0147 to read as follows:

2-23 Sec. 823.0147. GROUP-WIDE SUPERVISION OF INTERNATIONALLY
 2-24 ACTIVE INSURANCE GROUPS. (a) The commissioner is authorized to act
 2-25 as the group-wide supervisor for any internationally active
 2-26 insurance group under the provisions of this section.

2-27 (b) The commissioner may otherwise acknowledge another
 2-28 regulatory official as the group-wide supervisor where the
 2-29 internationally active insurance group:

2-30 (1) does not have substantial insurance operations in
 2-31 the United States;

2-32 (2) has substantial insurance operations in the United
 2-33 States, but not in this state; or

2-34 (3) has substantial insurance operations in the United
 2-35 States and this state, but the commissioner has determined under
 2-36 the factors in Subsections (e) and (k) that the other regulatory
 2-37 official is the appropriate group-wide supervisor.

2-38 (c) An insurance holding company system that does not
 2-39 otherwise qualify as an internationally active insurance group may
 2-40 request that the commissioner make a determination or
 2-41 acknowledgment as to a group-wide supervisor under this section.

2-42 (d) In cooperation with other state, federal, and
 2-43 international regulatory agencies, the commissioner will identify
 2-44 a single group-wide supervisor for an internationally active
 2-45 insurance group. The commissioner may determine that the
 2-46 commissioner is the appropriate group-wide supervisor for an
 2-47 internationally active insurance group that conducts substantial
 2-48 insurance operations concentrated in this state. The commissioner
 2-49 may acknowledge that a regulatory official from another
 2-50 jurisdiction is the appropriate group-wide supervisor for the
 2-51 internationally active insurance group.

2-52 (e) The commissioner shall consider the following factors
 2-53 when making a determination or acknowledgment under Subsection (d):

2-54 (1) the place of domicile of the insurers within the
 2-55 internationally active insurance group that hold the largest share
 2-56 of the group's written premiums, assets, or liabilities;

2-57 (2) the place of domicile of the top-tiered insurers
 2-58 in the insurance holding company system of the internationally
 2-59 active insurance group;

2-60 (3) the location of the executive offices or largest
 2-61 operational offices of the internationally active insurance group;

2-62 (4) whether another regulatory official is acting or
 2-63 is seeking to act as the group-wide supervisor under a regulatory
 2-64 system that the commissioner determines to be:

2-65 (A) substantially similar to the system of
 2-66 regulation provided under the laws of this state; or

2-67 (B) otherwise sufficient in terms of providing
 2-68 for group-wide supervision, enterprise risk analysis, and
 2-69 cooperation with other regulatory officials; and

3-1 (5) whether another regulatory official acting or
 3-2 seeking to act as the group-wide supervisor provides the
 3-3 commissioner with reasonably reciprocal recognition and
 3-4 cooperation.

3-5 (f) A commissioner identified under this section as the
 3-6 group-wide supervisor may determine that it is appropriate to
 3-7 acknowledge another supervisor to serve as the group-wide
 3-8 supervisor. The acknowledgment of the group-wide supervisor shall
 3-9 be made after consideration of the factors listed in Subsection
 3-10 (e), and shall be made in cooperation with and subject to the
 3-11 acknowledgment of other regulatory officials involved with
 3-12 supervision of members of the internationally active insurance
 3-13 group, and in consultation with the internationally active
 3-14 insurance group.

3-15 (g) Notwithstanding any other provision of law, when
 3-16 another regulatory official is acting as the group-wide supervisor
 3-17 of an internationally active insurance group, the commissioner
 3-18 shall acknowledge that regulatory official as the group-wide
 3-19 supervisor.

3-20 (h) The commissioner shall make a determination or
 3-21 acknowledgment as to the appropriate group-wide supervisor for an
 3-22 internationally active insurance group under Subsection (d) or (f)
 3-23 in the event of a material change in the internationally active
 3-24 insurance group that results in:

3-25 (1) the internationally active insurance group's
 3-26 insurers domiciled in this state holding the largest share of the
 3-27 group's premiums, assets, or liabilities; or

3-28 (2) this state being the place of domicile of the
 3-29 top-tiered insurers in the insurance holding company system of the
 3-30 internationally active insurance group.

3-31 (i) Under Subchapter H, the commissioner is authorized to
 3-32 collect from any insurer registered under Subchapter B all
 3-33 information necessary to determine whether the commissioner may act
 3-34 as the group-wide supervisor of an internationally active insurance
 3-35 group or if the commissioner may acknowledge another regulatory
 3-36 official to act as the group-wide supervisor. Prior to issuing a
 3-37 determination that an internationally active insurance group is
 3-38 subject to group-wide supervision by the commissioner, the
 3-39 commissioner shall notify the insurer registered under Subchapter B
 3-40 and the ultimate controlling person within the internationally
 3-41 active insurance group. The internationally active insurance group
 3-42 shall have not less than 30 days to provide the commissioner with
 3-43 additional information pertinent to the pending determination. The
 3-44 commissioner may publish on the department's website the identity
 3-45 of internationally active insurance groups that the commissioner
 3-46 has determined are subject to group-wide supervision by the
 3-47 commissioner.

3-48 (j) If the commissioner is the group-wide supervisor for an
 3-49 internationally active insurance group, the commissioner is
 3-50 authorized to engage in any of the following group-wide supervision
 3-51 activities:

3-52 (1) assess the enterprise risks within the
 3-53 internationally active insurance group to ensure that:

3-54 (A) the material financial condition and
 3-55 liquidity risks to the members of the internationally active
 3-56 insurance group that are engaged in the business of insurance are
 3-57 identified by management; and

3-58 (B) reasonable and effective mitigation measures
 3-59 are in place;

3-60 (2) request, from any member of an internationally
 3-61 active insurance group subject to the commissioner's supervision,
 3-62 information necessary and appropriate to assess enterprise risk,
 3-63 including information about the members of the internationally
 3-64 active insurance group regarding:

3-65 (A) governance, risk assessment, and management;

3-66 (B) capital adequacy; and

3-67 (C) material intercompany transactions;

3-68 (3) coordinate and, through the authority of the
 3-69 regulatory officials of the jurisdictions where members of the

4-1 internationally active insurance group are domiciled, compel
 4-2 development and implementation of reasonable measures designed to
 4-3 ensure that the internationally active insurance group is able to
 4-4 timely recognize and mitigate enterprise risks to members of the
 4-5 internationally active insurance group that are engaged in the
 4-6 business of insurance;

4-7 (4) communicate with other state, federal, and
 4-8 international regulatory agencies for members within the
 4-9 internationally active insurance group and share relevant
 4-10 information, subject to the confidentiality provisions of Section
 4-11 823.011, through supervisory colleges in Section 823.0145 or
 4-12 otherwise;

4-13 (5) enter into agreements with or obtain documentation
 4-14 from any insurer registered under Subchapter B, any member of the
 4-15 internationally active insurance group, and any other state,
 4-16 federal, and international regulatory agencies for members of the
 4-17 internationally active insurance group, providing the basis for or
 4-18 otherwise clarifying the commissioner's role as group-wide
 4-19 supervisor, including provisions for resolving disputes with other
 4-20 regulatory officials, provided that such agreements or
 4-21 documentation may not serve as evidence in any proceeding to show
 4-22 that any insurer or person within an insurance holding company
 4-23 system not domiciled or incorporated in this state is doing
 4-24 business in this state or is otherwise subject to jurisdiction in
 4-25 this state; and

4-26 (6) other group-wide supervision activities,
 4-27 consistent with the authorities and purposes enumerated above, as
 4-28 considered necessary by the commissioner.

4-29 (k) If the commissioner acknowledges that another
 4-30 regulatory official from a jurisdiction that is not accredited by
 4-31 the National Association of Insurance Commissioners is the
 4-32 group-wide supervisor, the commissioner is authorized to
 4-33 reasonably cooperate, through supervisory colleges or otherwise,
 4-34 with group-wide supervision undertaken by the group-wide
 4-35 supervisor, provided that:

4-36 (1) the commissioner's cooperation is in compliance
 4-37 with the laws of this state; and

4-38 (2) the regulatory official acknowledged as the
 4-39 group-wide supervisor also recognizes and cooperates with the
 4-40 commissioner's activities as a group-wide supervisor for other
 4-41 internationally active insurance groups where applicable.

4-42 (l) Where recognition and cooperation are not reasonably
 4-43 reciprocal under Subsection (k)(2), the commissioner is authorized
 4-44 to refuse recognition and cooperation.

4-45 (m) The commissioner is authorized to enter into agreements
 4-46 with or obtain documentation from any insurer registered under
 4-47 Subchapter B, any affiliate of the insurer, and other state,
 4-48 federal, and international regulatory agencies for members of the
 4-49 internationally active insurance group that provides the basis for
 4-50 or otherwise clarifies a regulatory official's role as group-wide
 4-51 supervisor.

4-52 (n) The commissioner may adopt rules necessary for the
 4-53 administration of this section.

4-54 (o) A registered insurer subject to this section shall be
 4-55 liable for and shall pay the reasonable expenses of the
 4-56 commissioner's participation in the administration of this
 4-57 section, including the engagement of attorneys, actuaries, and any
 4-58 other professionals and all reasonable travel expenses.

4-59 SECTION 4. Section 823.054(b), Insurance Code, is amended
 4-60 to read as follows:

4-61 (b) If the amount of a single transaction or the total
 4-62 amount of all transactions involving sales, purchases, exchanges,
 4-63 loans or other extensions of credit, or investments is more than
 4-64 [~~the lesser of~~] one-half of one percent of an insurer's admitted
 4-65 assets [~~or five percent of an insurer's surplus,~~] as of December 31
 4-66 of the year preceding the date of the transaction or transactions,
 4-67 the transaction or transactions, respectively, are considered to be
 4-68 material for purposes of this section.

4-69 SECTION 5. (a) Section 823.011, Insurance Code, as amended

5-1 by this Act, applies only to information, including documents and
5-2 copies of documents, obtained by or reported, disclosed, or
5-3 otherwise provided to the commissioner of insurance on or after the
5-4 effective date of this Act. Information, including documents and
5-5 copies of documents, obtained by or reported, disclosed, or
5-6 otherwise provided to the commissioner of insurance before the
5-7 effective date of this Act is governed by the law in effect on the
5-8 date the transaction occurred, and the former law is continued in
5-9 effect for that purpose.

5-10 (b) Section 823.054, Insurance Code, as amended by this Act,
5-11 applies only to a transaction that occurs on or after the effective
5-12 date of this Act. A transaction that occurs before the effective
5-13 date of this Act is governed by the law in effect on the date the
5-14 transaction occurred, and the former law is continued in effect for
5-15 that purpose.

5-16 SECTION 6. This Act takes effect immediately if it receives
5-17 a vote of two-thirds of all the members elected to each house, as
5-18 provided by Section 39, Article III, Texas Constitution. If this
5-19 Act does not receive the vote necessary for immediate effect, this
5-20 Act takes effect September 1, 2017.

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