Chapter 313

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AN ACT
relating to the standard valuation for life insurance, accident and
health insurance, and annuities and the nonforfeiture requirements
of certain life insurance policies; amending provisions that may be
subject to a criminal penalty.

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
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deposit-type contracts in any state and is required to hold a
certificate of authority to write life insurance, accident and
health insurance, or deposit-type contracts in this state.

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

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

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

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

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

(9) "Reserves"["reserves"] means reserve
liabilities.
(10) "Tail risk" means a risk that occurs either where
the frequency of low probability events is higher than expected
under a normal probability distribution or where there are observed
events of very significant size or magnitude.

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

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

SECTION 2. The heading to Section 425.053, Insurance Code,
is amended to read as follows:
Sec. 425.053. ANNUAL VALUATION OF RESERVES FOR POLICIES AND
CONTRACTS ISSUED BEFORE OPERATIVE DATE OF VALUATION MANUAL.

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

(a) The department shall annually value or cause to be
[have] valued the reserves for all outstanding life insurance
policies and annuity and pure endowment contracts of each life
insurance company engaged in business in this state issued before
the operative date of the valuation manual. [The department may
certify the amount of those reserves, specifying the mortality
table or tables, rate or rates of interest, and methods, including
the net level premium method or another method, used in computing
those reserves.]
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(c) Instead of valuing the reserves as required by Subsection (a) for a foreign or alien company, the department may accept any valuation made by or for the insurance supervisory official of another state or jurisdiction if:

1. The valuation complies with the minimum standard provided by this subchapter.
2. The official accepts as sufficient and valid for all legal purposes a certificate of valuation made by the department that states the valuation was made in a specified manner according to which the aggregate reserves would be at least as large as they would be if computed in the manner prescribed by the law of that state or jurisdiction.

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

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

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

Sec. 425.0535. ANNUAL VALUATION OF RESERVES FOR POLICIES AND CONTRACTS ISSUED ON OR AFTER OPERATIVE DATE OF VALUATION MANUAL. (a) The commissioner shall annually value, or cause to be valued, the reserves for all outstanding life insurance contracts,
annuity and pure endowment contracts, accident and health
contracts, and deposit-type contracts of each company issued on or
after the operative date of the valuation manual.

(b) In lieu of the valuation of the reserves required of a
foreign or alien company, the commissioner may accept a valuation
made, or caused to be made, by the insurance supervisory official of
another state if the valuation complies with the minimum standard
provided by this subchapter.

(c) Sections 425.072(a), 425.073, and 425.074 apply to all
policies and contracts issued on or after the operative date of the
valuation manual.

SECTION 5. The heading to Section 425.054, Insurance Code,
is amended to read as follows:

Sec. 425.054. ACTUARIAL OPINION OF RESERVES ISSUED BEFORE
OPERATIVE DATE OF VALUATION MANUAL [REQUIRED].

SECTION 6. Section 425.054, Insurance Code, is amended by
amending Subsection (a) and adding Subsections (a-1), (j), (k),
(l), (m), (n), (o), (p), and (q) to read as follows:

(a) This section applies only to an actuarial opinion of
reserves issued before the operative date of the valuation manual.

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

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

(2) a person who, before September 1, 1993, satisfied
the requirements of the former State Board of Insurance to submit an
opinion under former Section 2A(a)(1), Article 3.28.
(j) Except as provided by Subsections (n), (o), and (p), any document or other information in the possession or control of the department that is a memorandum in support of the opinion or other material provided by the company to the commissioner in connection with a memorandum is confidential and privileged and not subject to:

1. disclosure under Chapter 552, Government Code;
2. subpoena;
3. discovery; or
4. admissibility as evidence in a private civil action.

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

1. The commissioner may:
   1. share documents or other information, including the confidential and privileged documents or information described by Subsection (j), with another state, federal, or international regulatory agency, with the National Association of Insurance Commissioners and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality of the document or information; and
   2. receive documents or other information, including confidential and privileged documents or information, from the
National Association of Insurance Commissioners and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, provided that the commissioner shall maintain as confidential or privileged any document or information received with notice or understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document or information.

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

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

(o) The memorandum or other material provided by the company to the commissioner in connection with the memorandum may otherwise be released by the commissioner with the written consent of the company, or to the Actuarial Board for Counseling and Discipline or its successor on receipt of a request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality and privileged status of the memorandum or other material.
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(p) The memorandum ceases to be confidential and privileged if:

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

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

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

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

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

Sec. 425.0545. ACTUARIAL OPINION OF RESERVES AFTER OPERATIVE DATE OF VALUATION MANUAL. (a) A company that has outstanding life insurance contracts, accident and health insurance contracts, or deposit-type contracts in this state and is subject to regulation by the department shall annually submit the opinion of the appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts, and are in compliance with applicable laws of this state. An opinion under this section must comply with provisions of the valuation manual, including in regard to any items necessary to its scope.
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(b) Unless exempted by the valuation manual, a company described by Subsection (a) shall include with the opinion required by that subsection an opinion of the same appointed actuary concerning whether the reserves and related actuarial items held in support of the policies and contracts specified in the valuation manual, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including investment earnings on the assets and considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including benefits under and expenses associated with the policies and contracts.

(c) Each opinion required by this section must:

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

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

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

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

(d) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion.
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filed by the company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

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

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

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

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

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

Sec. 425.057. DISCIPLINARY ACTION: COMPANY OR PERSON CERTIFYING OPINION. A company or person that certifies an opinion under Section 425.054 or 425.0545 and that violates Section 425.054, 425.0545, or 425.055 or rules adopted under those sections
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1 is subject to disciplinary action under Chapter 82.

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

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

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

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

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

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

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

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

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

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

(b) For disability, accident and sickness, and accident and health insurance contracts issued before the operative date of the
valuation manual, the minimum standard of valuation is the standard in existence before the operative date of the valuation manual in addition to any requirements established by the commissioner and adopted by rule.

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

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

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

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

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

(B) health annual statements; or

(C) fraternal annual statements; and

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

(A) the 50 United States;

(B) American Samoa;

(C) the United States Virgin Islands;

(D) the District of Columbia;

(E) Guam; and

(F) Puerto Rico.

(c) After a valuation manual has been adopted by the commissioner by rule, any changes to the valuation manual must be adopted by rule and must be substantially similar to changes adopted by the National Association of Insurance Commissioners. Unless a change in the valuation specifies a later effective date, the effective date for changes to the valuation manual may not be earlier than January 1 of the year immediately following the date on which the commissioner determines that the changes to the valuation manual have been adopted by the National Association of Insurance Commissioners by an affirmative vote representing:
(1) at least three-fourths of the members of the National Association of Insurance Commissioners voting, but not less than a majority of the total membership; and

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

(d) The valuation manual must specify:

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

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

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

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

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

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

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

and

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

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

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

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

(6) an exemption that allows certain small companies to value reserves based on an exception from certain requirements of this section and Section 425.074; however, the premium thresholds for determining whether the exemption applies shall be as follows:

(A) less than $300 million of ordinary life premium; and

(B) less than $600 million of combined ordinary life premiums for a group of life insurers if the company is a member of that group.

(e) For purposes of Subsections (d)(6)(A) and (B), an
ordinary life premium is measured as a direct premium plus reinsurance assumed from an unaffiliated company, as reported in the prior calendar year statement.

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

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

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

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

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

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

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

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

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

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

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

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

(4) incorporate assumptions:

(A) prescribed by the valuation manual; or
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(B) established:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) No waiver of any applicable privilege or claim of confidentiality in the confidential information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in Subsection (d).
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(h) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under Subsections (b) through (k) shall be available and enforced in any proceeding in, and in any court of, this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) the Commissioners 1980 Extended Term Insurance Table.

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

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

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

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

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

or

(2) the Commissioners 1980 Extended Term Insurance Table.

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

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

(1) the 1961 Standard Industrial Mortality Table; or

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

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

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

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

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

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

SECTION 20. This Act takes effect September 1, 2015.
S.B. No. 1654

I hereby certify that S.B. No. 1654 passed the Senate on April 15, 2015, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1654 passed the House on May 19, 2015, by the following vote: Yeas 146, Nays 0, two present not voting.

Chief Clerk of the House

Approved: 5-30-2015

Governor

Secretary of State
TO: Honorable John Frullo, Chair, House Committee on Insurance  
FROM: Ursula Parks, Director, Legislative Budget Board  

IN RE: SB1654 by Hancock (Relating to the standard valuation for life insurance, accident and health insurance, and annuities and the nonforfeiture requirements of certain life insurance policies; amending provisions that may be subject to a criminal penalty.), As Engrossed

| No significant fiscal implication to the State is anticipated. |

The bill would amend the Insurance Code relating to the standard valuation for life insurance, accident and health insurance, and annuities and the nonforfeiture requirements of certain life insurance policies; amending provisions that may be subject to a criminal penalty.

Based on information provided by the Texas Department of Insurance, it is assumed that all duties and responsibilities necessary to implement the provisions of the bill could be accomplished within existing staff and resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 454 Department of Insurance

LBB Staff: UP, CL, ER, AG, NV, NHe
TO: Honorable Kevin Eltife, Chair, Senate Committee on Business & Commerce  
FROM: Ursula Parks, Director, Legislative Budget Board  
IN RE: SB1654 by Hancock (Relating to the standard valuation for life insurance, accident and health insurance, and annuities and the nonforfeiture requirements of certain life insurance policies; amending provisions that may be subject to a criminal penalty.), Committee Report 1st House, Substituted  

No significant fiscal implication to the State is anticipated.  
The bill would amend the Insurance Code relating to the standard valuation for life insurance, accident and health insurance, and annuities and the nonforfeiture requirements of certain life insurance policies; amending provisions that may be subject to a criminal penalty.  
Based on information provided by the Texas Department of Insurance, it is assumed that all duties and responsibilities necessary to implement the provisions of the bill could be accomplished within existing staff and resources.  
Local Government Impact  
No fiscal implication to units of local government is anticipated.  
Source Agencies: 454 Department of Insurance  
LBB Staff: UP, CL, ER, AG, NV, NHe
TO: Honorable Kevin Eltife, Chair, Senate Committee on Business & Commerce

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB1654 by Hancock (Relating to the standard valuation for life insurance, accident and health insurance, and annuities and the nonforfeiture requirements of certain life insurance policies.), As Introduced

No significant fiscal implication to the State is anticipated.

The bill would amend the Insurance Code relating to the standard valuation for life insurance, accident and health insurance, and annuities and the nonforfeiture requirements of certain life insurance policies.

Based on information provided by the Texas Department of Insurance, it is assumed that all duties and responsibilities necessary to implement the provisions of the bill could be accomplished utilizing existing staff and resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 454 Department of Insurance

LBB Staff: UP, CL, ER