

BILL ANALYSIS

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C.S.S.B. 1071
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Business & Commerce
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Holding company systems, or groups, are now the most common form of ownership structure in the insurance industry. These groups encompass not only insurance companies, but also multiple types of affiliates, such as banks and securities firms. These multiple types of affiliates and their financial condition can impact the financial condition of affiliated insurance companies, which is a primary reason for the Holding Company Act and its solvency monitoring provisions.

If a holding company's practices begin to affect the financial solvency of its members, then the regulators assigned to the various entities within a holding company (such as Texas Department of Insurance (TDI) for insurance companies), step in and advise the holding company of the changes that need to be made to protect the financial security of the holding company, both as a whole and for its individual members.

This role, often referred to as group-wide supervisor, is an important financial solvency tool because it creates a comprehensive approach to solving holding company financial issues before they impact policyholders. The group-wide supervisor function, however, does not give TDI authority to directly regulate members of the holding company, other than insurers. TDI only has the ability to regulate the insurers over which the Texas Legislature has statutorily given TDI regulatory authority.

S.B. 1071 modifies the materiality threshold for reporting certain transactions between insurers and their affiliates in order to simplify the calculation of materiality.

S.B. 1071 amends Chapter 823, Insurance Code, Insurance Holding Company Systems (also known as the Holding Company Act), to clarify and codify existing TDI authority and business practices related to holding company systems that include an insurer. (Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 1071 amends current law relating to the regulation of insurance holding company systems, including internationally active insurance groups, and authorizes a fee.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 3 (Section 823.0147, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 823.002, Insurance Code, by adding Subdivisions (4-b) and (6-a), to define “group-wide supervisor” and “internationally active insurance group.”

SECTION 2. Amends Sections 823.011(a), (d), and (d-1), Insurance Code, as follows:

(a) Provides that this section (Confidentiality of Information) applies only to information, including documents and copies of documents, that is:

(1) reported or otherwise provided under certain statutes, including Section 823.0147, which is added by this Act;

(2) makes no changes to this subdivision; or

(3) obtained by or disclosed to the commissioner of insurance (commissioner) or another person in the course of an examination or investigation under Subchapter H (Examinations) or Chapter 401 (Audits and Examinations).

(d) Authorizes the commissioner or another person to disclose information to certain entities, except as provided by Subsection (e) (relating to authorizing the commissioner to share certain information only with the commissioner of certain states) if the recipient of documents or other information described by Subsection (a) agrees in writing to maintain the confidential and privileged status of the documents or information.

(d-1) Makes nonsubstantive changes.

SECTION 3. Amends Subchapter A, Chapter 823, Insurance Code, by adding Section 823.0147, as follows:

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

(b) Authorizes the commissioner to otherwise acknowledge another regulatory official (official) as the group-wide supervisor (GWS) where the insurance group meets certain criteria.

(c) Authorizes an insurance holding company system (system) that does not otherwise qualify as an insurance group to request that the commissioner make a determination or acknowledgment as to a GWS under this section.

(d) Provides that, in cooperation with certain other agencies, the commissioner will identify a single GWS for an insurance group and authorizes the commissioner to determine that the commissioner is the appropriate GWS for an insurance group that conducts substantial insurance operations concentrated in this state. Authorizes the commissioner to acknowledge that an official from another jurisdiction is the appropriate GWS for the insurance group.

(e) Requires the commissioner to consider certain factors when making a determination or acknowledgment under Subsection (d).

(f) Authorizes the commissioner identified as the GWS to determine that it is appropriate to acknowledge another supervisor to serve as the GWS. Requires that the acknowledgement of the GWS be made after consideration of the factors listed in Subsection (e) and be made in cooperation with and subject to the acknowledgment of other officials involved with supervision of members of the insurance group, and in consultation with the insurance group.

(g) Requires the commissioner, notwithstanding any other provision of law, when another official is acting as the GWS of an insurance group, to acknowledge that official as the GWS.

(h) Requires the commissioner to make a determination or acknowledgment as to the appropriate GWS for an insurance group under Subsection (d) or (f) in the event of a material change in the insurance group that results in:

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

(2) this state being the place of domicile of the top-tiered insurers in the system of the insurance group.

(i) Provides that under Subchapter H the commissioner is authorized to collect from any insurer registered under Subchapter B (Registration) certain information relating to certain persons determined to act as the GWS of an insurance group. Requires the commissioner, prior to issuing a determination that an insurance group is subject to group-wide supervision (supervision) by the commissioner, to notify the registered insurer and the ultimate controlling person within the insurance group. Requires the insurance group to have not less than 30 days to provide the commissioner with additional information pertinent to the pending determination. Authorizes the commissioner to publish on the Texas Department of Insurance's website the identity of insurance groups that the commissioner has determined are subject to supervision by the commissioner.

(j) Provides that, if the commissioner is the GWS for an insurance group, the commissioner is authorized to engage in certain supervision activities.

(k) Provides that, if the commissioner acknowledges that another official from a certain jurisdiction is the GWS, the commissioner is authorized to reasonably cooperate, through supervisory colleges or otherwise, with supervision undertaken by the GWS, provided that the commissioner's cooperation is in compliance with the laws of this state and the official acknowledged as the GWS also recognizes and cooperates with the commissioner's activities as a GWS for other insurance groups where applicable.

(l) Provides that, where recognition and cooperation are not reasonably reciprocal under Subsection (k)(2), the commissioner is authorized to refuse recognition and cooperation.

(m) Provides that the commissioner is authorized to enter into agreements with or obtain documentation from certain persons or agencies for members of the insurance group that provides the basis for or otherwise clarifies an official's role as GWS.

(n) Authorizes the commissioner to adopt rules necessary for the administration of this section.

(o) Requires a registered insurer subject to this section to be liable for and requires the registered insurer to pay the reasonable expenses of the commissioner's participation in the administration of this section, including the engagement of attorneys, actuaries, and any other professionals and all reasonable travel expenses.

SECTION 4. Amends Section 823.054(b), Insurance Code, to provide that if the total amount of certain transactions is more than one-half of one percent of an insurer's admitted assets, rather than the lesser of one-half of one percent of an insurer's admitted assets or five percent of an insurer's surplus, as of December 31 of the year preceding the date of the transactions, the transactions are considered to be material.

SECTION 5. (a) Makes application of Section 823.011, Insurance Code, as amended by this Act, prospective.

(b) Makes application of Section 823.054, Insurance Code, as amended by this Act, prospective.

SECTION 6. Effective date: upon passage or September 1, 2017.