(d) The committee may adopt rules necessary to carry out the committee's duties under this section.

(e) Not later than December 1, 2014, the committee shall report to the governor and the legislature the findings of the study and any recommendations developed by the committee under this section.

SECTION 9. This Act takes effect September 1, 2013.

Passed by the House on May 7, 2013: Yeas 91, Nays 42, 2 present, not voting; the House refused to concur in Senate amendments to H.B. No. 3459 on May 22, 2013, and requested the appointment of a conference committee to consider the differences between the two houses; the House adopted the conference committee report on H.B. No. 3459 on May 26, 2013: Yeas 120, Nays 27, 2 present, not voting; passed by the Senate, with amendments, on May 21, 2013: Yeas 25, Nays 5; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; the Senate adopted the conference committee report on H.B. No. 3459 on May 26, 2013: Yeas 26, Nays 5.

Approved June 14, 2013.
Effective September 1, 2013.

CHAPTER 1087
H.B. No. 3460
AN ACT
relating to the requirement that certain information be reported to the Texas Department of Insurance and the confidentiality of that information.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 823.011, Insurance Code, is amended by amending Subsections (a) and (d) and adding Subsection (d-1) to read as follows:

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

(1) reported or otherwise provided under Subchapter B or C or Section 823.201(d) or (e);
(2) disclosed to the commissioner under Section 823.010; or
(3) obtained by or disclosed to the commissioner or another person in the course of an examination or investigation under Subchapter H.

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

(1) a commissioner of insurance or an insurance department of another state;
(2) an authorized law enforcement official;
(3) a district attorney of this state;
(4) the attorney general;
(5) a grand jury;
(6) members of a supervisory college described by Section 823.0145; [ø]
(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

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(d), 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 2. Section 823.052(c), Insurance Code, is amended to read as follows:

(c) The registration statement must also contain information about:

(1) each outstanding loan the insurer makes to an affiliate of the insurer or an affiliate makes to the insurer;

(2) each purchase, sale, or exchange of securities or other investment between the insurer and an affiliate of the insurer;

(3) each purchase, sale, or exchange of assets between the insurer and an affiliate of the insurer;

(4) each management and service contract or cost-sharing arrangement between the insurer and an affiliate of the insurer;

(5) each reinsurance agreement between the insurer and an affiliate of the insurer that covers one or more lines of insurance of the ceding company;

(6) each agreement between the insurer and an affiliate of the insurer to consolidate federal income tax returns;

(7) each transaction between the insurer and an affiliated financial institution;

(8) each transaction between the insurer and an affiliate of the insurer that is not in the ordinary course of business;

(9) each guarantee or undertaking, other than an insurance contract entered into in the ordinary course of the insurer's business, for the benefit of an affiliate of the insurer that results in a contingent exposure of the insurer's assets to liability;

(10) each dividend or distribution to the insurer's shareholders;

(11) each transaction between the insurer and an affiliate of the insurer not specified by this subsection that is subject to Section 823.102, 823.103, or 823.104;

(12) the corporate governance and internal control responsibilities of the insurer's board of directors, including a statement that:

(A) the insurer's senior management or officers have approved and implemented, and continue to maintain and monitor, corporate governance and internal control procedures; and

(B) the insurer's board of directors oversees corporate governance and internal controls; and

(13) any other information that the commissioner requires by rule.

SECTION 3. Section 823.053(e), Insurance Code, is amended to read as follows:

(e) An insurer is not required to report under this section a transaction that is approved under Section 823.102 or 823.103. That approval is considered to be an amendment of the registration statement filed under Section 823.052 without being reported under this section.

SECTION 4. Sections 823.103(a) and (b), Insurance Code, are amended to read as follows:

(a) This section applies only to:

(1) a sale, purchase, exchange, loan or other extension of credit, or investment between a domestic insurer and any person in the insurer's insurance holding company system, including an amendment or modification of an affiliate agreement previously filed under this section, provided the transaction is not less than:

(A) with respect to nonlife insurers, the lesser of three percent of the insurer's admitted assets [that involves more than the lesser of one half of one percent of the insurer's admitted assets or 25 percent of the insurer's surplus as regards policyholders as of December 31 of the year preceding the year in which the transaction occurs; or (and) ]

(B) with respect to life insurers, three percent of the insurer's admitted assets as of December 31 of the year preceding the year in which the transaction occurs [the approval of which is not required under Section 823.102];

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(2) a loan or other extension of credit to a person who is not an affiliate if the insurer makes a loan or extension of credit with the agreement or understanding that the proceeds of the transaction, wholly or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investment in, an affiliate of the insurer making the loan or extension of credit, provided the transaction is not less than:

(A) with respect to nonlife insurers, the lesser of three percent of the insurer's admitted assets or 25 percent of the insurer's surplus as regards policyholders as of December 31 of the year preceding the year in which the transaction occurs; or

(B) with respect to life insurers, three percent of the insurer's admitted assets as of December 31 of the year preceding the year in which the transaction occurs;

(3) a reinsurance agreement, including a reinsurance treaty or pooling agreement, or an amendment or modification of an agreement previously filed under this section, between a domestic insurer and any person in the insurer's holding company system;

(4) a rendering of services between a domestic insurer and any person in the insurer's holding company system on a regular or systematic basis, including a tax-allocation agreement, or an amendment or modification of an agreement previously filed under this section; or

(5) any material transaction between a domestic insurer and any person in the insurer's holding company system that is specified by rule and that the commissioner determines may adversely affect the interests of the insurer's policyholders or of the public, including an amendment or modification of an agreement previously filed under this section.

(b) Subsection (a)(3) includes a reinsurance agreement that requires as consideration a transfer of assets from an insurer to a nonaffiliate and in relation to which the insurer and nonaffiliate agree that any part of the transferred assets are to be transferred to one or more affiliates of the insurer.

SECTION 5. Section 823.104, Insurance Code, is amended to read as follows:

Sec. 823.104. PROHIBITION OF ACTION TO AVOID APPLICATION OF SUBCHAPTER. (a) A domestic insurer may not enter into transactions with persons in the insurer's insurance holding company system if:

(1) the transactions are part of a plan or series of similar transactions; and

(2) the purpose of entering into the transactions is to avoid a threshold amount provided by Section 823.103.

(b) If the commissioner determines that over any 12-month period a domestic insurer enters into transactions that violate Subsection (a), the commissioner may:

(1) consider the cumulative effect of the transactions; and

(2) apply:

(A) Section 823.103; or

(B) sanctions under this code.

SECTION 6. Section 823.102, Insurance Code, is amended to read as follows:

Sec. 823.102. TYPE OF AUTHORITY PROVIDED. Nothing in Section 823.102 or 823.104 authorizes a transaction that would violate law that is applicable to an insurer that is not subject to this subchapter.

SECTION 7. Section 823.102, Insurance Code, is repealed.

SECTION 8. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

Passed by the House on May 3, 2013: Yeas 144, Nays 1, 1 present, not voting; passed by the Senate on May 22, 2013: Yeas 31, Nays 0.

Approved June 14, 2013.

Effective June 14, 2013.