

INSURANCE CODE

TITLE 6. ORGANIZATION OF INSURERS AND RELATED ENTITIES

SUBTITLE B. ORGANIZATION OF REGULATED ENTITIES

CHAPTER 830. OWN RISK AND SOLVENCY ASSESSMENT

Sec. 830.001. APPLICABILITY AND PURPOSE. (a) This chapter applies to each domestic insurer unless exempt under Section [830.006](#).

(b) The purpose of this chapter is to provide the requirements for maintaining a risk management framework and completing an own risk and solvency assessment and to provide guidance and instructions for filing an own risk and solvency assessment summary report with the commissioner.

(c) The own risk and solvency assessment summary report will contain confidential and sensitive information related to an insurer or insurance group's identification of risks material and relevant to the insurer or insurance group filing the report. This information will include proprietary and trade secret information that has the potential for harm and competitive disadvantage to the insurer or insurance group if the information is made public. The summary report is a confidential document filed with the commissioner, and the commissioner may share the summary report only as stated in this chapter in order to assist the commissioner in the performance of the commissioner's duties. An own risk and solvency assessment summary report is not subject to public disclosure in any event.

Added by Acts 2015, 84th Leg., R.S., Ch. 39 (S.B. [655](#)), Sec. 1, eff. May 19, 2015.

Sec. 830.002. DEFINITIONS. In this chapter:

(1) "Guidance manual" means the version of the Own Risk and Solvency Assessment Guidance Manual developed and adopted by the National Association of Insurance Commissioners that is in effect at the time a summary report is provided. A change in the guidance manual becomes effective on the January 1 following the calendar year in which the changes are adopted by the National Association of Insurance Commissioners.

(2) "Insurance group" means the insurers and affiliates included within an insurance holding company system as described by Section [823.006](#).

(3) "Insurer" has the meaning assigned by Section [823.002\(6\)](#).

(4) "Own risk and solvency assessment" means a confidential internal assessment, appropriate to the nature, scale, and complexity of an insurer or insurance group, conducted by that insurer or insurance group, of the material and relevant risks associated with the insurer or insurance group's current business plan and the sufficiency of capital resources to support those risks.

(5) "Summary report" means a confidential, high-level summary of an insurer's or insurance group's own risk and solvency assessment.

Added by Acts 2015, 84th Leg., R.S., Ch. 39 (S.B. [655](#)), Sec. 1, eff. May 19, 2015.

Sec. 830.003. RISK MANAGEMENT FRAMEWORK. An insurer shall maintain a risk management framework to assist the insurer with identifying, assessing, monitoring, managing, and reporting on the insurer's material and relevant risks. This requirement may be satisfied if the insurance group of which the insurer is a member maintains a risk management framework applicable to the operations of the insurer.

Added by Acts 2015, 84th Leg., R.S., Ch. 39 (S.B. [655](#)), Sec. 1, eff. May 19, 2015.

Sec. 830.004. OWN RISK AND SOLVENCY ASSESSMENT REQUIREMENT.

(a) Subject to Section [830.006](#), an insurer, or the insurance group of which the insurer is a member, shall regularly conduct, consistent with a process comparable to the guidance manual, an own risk and solvency assessment, appropriate to the nature, scale, and complexity of the insurer or insurance group, of the material and relevant risks associated with the insurer's or insurance group's current business plan and the sufficiency of capital resources to support those risks.

(b) The insurer, or the insurance group of which the insurer is a member, shall conduct the own risk and solvency assessment described by Subsection (a):

(1) annually; and

(2) at any other time there are significant changes to the risk profile of the insurer or the insurance group of which the insurer is a member.

Added by Acts 2015, 84th Leg., R.S., Ch. 39 (S.B. 655), Sec. 1, eff. May 19, 2015.

Sec. 830.005. SUMMARY REPORT REQUIRED. (a) On the commissioner's request, an insurer shall submit to the commissioner a summary report or a combination of reports that together contain the information described in the guidance manual. The commissioner may not make a request under this subsection more than once each year.

(b) Without regard to whether the commissioner has made a request under Subsection (a), if the insurer is a member of an insurance group, the insurer shall submit to the commissioner the reports required by Subsection (a) if the commissioner is the lead state commissioner of the insurance group.

(c) In determining the lead state commissioner for purposes of this section, the commissioner shall consider the procedures adopted by the National Association of Insurance Commissioners.

(d) The reports must include a signature of the insurer's or insurance group's chief risk officer or other executive responsible for the oversight of the insurer's enterprise risk management process attesting to the best of the officer's or executive's belief and knowledge that:

(1) the insurer applies the enterprise risk management process described in the summary report; and

(2) a copy of the report has been provided to the insurer's board of directors or the appropriate committee of the board of directors.

(e) An insurer may comply with Subsection (a) or (b) by providing the most recent and substantially similar report that the insurer or another member of an insurance group of which the insurer

is a member provided to the commissioner of another state or to a supervisor or regulator of a foreign jurisdiction, if that report provides information that is comparable to the information described in the guidance manual. A report in a language other than English must be accompanied by a translation of that report into the English language.

Added by Acts 2015, 84th Leg., R.S., Ch. 39 (S.B. 655), Sec. 1, eff. May 19, 2015.

Sec. 830.006. EXEMPTION. (a) An insurer is exempt from the requirements of this chapter if:

(1) the insurer has annual direct written and unaffiliated assumed premium, including international direct and assumed premium but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of less than \$500 million; and

(2) the insurance group of which the insurer is a member has annual direct written and unaffiliated assumed premium, including international direct and assumed premium but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of less than \$1 billion.

(b) If an insurer qualifies for exemption under Subsection (a)(1), but the insurance group of which the insurer is a member does not qualify for exemption under Subsection (a)(2), then the summary report required under Section 830.005 must include every insurer within the insurance group.

(c) An insurer may satisfy the requirement under Subsection (b) by submitting more than one summary report for any combination of insurers if the combination of reports includes each insurer within the insurance group.

(d) If an insurer does not qualify for exemption under Subsection (a)(1), but the insurance group of which it is a member qualifies for exemption under Subsection (a)(2), then the insurer must submit a summary report under Section 830.005 that is applicable to that insurer.

(e) An insurer that does not qualify for exemption under Subsection (a) may apply to the commissioner for a waiver from the

requirements of this chapter based on unique circumstances. In deciding whether to grant the insurer's request for waiver, the commissioner may consider the type and volume of business written, the ownership and organizational structure, and any other factor the commissioner considers relevant to the insurer or insurance group of which the insurer is a member. If the insurer is part of an insurance group with insurers domiciled in more than one state, the commissioner shall coordinate with the lead state commissioner and with the other domiciliary commissioners in considering whether to grant the insurer's request for a waiver.

(f) Notwithstanding the exemptions stated in this section, the commissioner may require that an insurer maintain a risk management framework, conduct an own risk and solvency assessment, and file a summary report if:

(1) there are unique circumstances, including the type and volume of business written, the ownership and organizational structure, federal agency requests, and international supervisor requests;

(2) the insurer has risk-based capital for a company action level event as set forth in department rules;

(3) the insurer meets one or more of the standards of an insurer considered to be in hazardous financial condition under Chapter 404 or department rule; or

(4) the insurer otherwise exhibits qualities of a troubled insurer as determined by the commissioner.

(g) If an insurer that qualifies for an exemption under Subsection (a) subsequently ceases to qualify for that exemption due to changes in premium as reflected in the insurer's most recent annual statement or in the most recent annual statements of the insurers within the insurance group of which the insurer is a member, the insurer must comply with the requirements of this chapter not later than December 31 of the calendar year following the calendar year the threshold is exceeded.

Added by Acts 2015, 84th Leg., R.S., Ch. 39 (S.B. 655), Sec. 1, eff. May 19, 2015.

Sec. 830.007. CONTENTS OF SUMMARY REPORT. (a) An insurer

shall prepare a summary report in accordance with the guidance manual and subject to the requirements of Subsection (b). An insurer shall maintain documentation and supporting information and shall make the documentation and supporting information available on examination or on request of the commissioner.

(b) When reviewing the summary report or making requests for additional information, the department shall use procedures similar to the procedures currently used in the analysis and examination of multistate or global insurers and insurance groups. Added by Acts 2015, 84th Leg., R.S., Ch. 39 (S.B. 655), Sec. 1, eff. May 19, 2015.

Sec. 830.008. CONFIDENTIALITY. (a) Documents, materials, or other information, including a summary report, in the possession or control of the department that is obtained by, created by, or disclosed to the commissioner or any other person under this chapter, including documents, materials, and other information shared or received under Subsection (e), and documents, materials, or other information in the possession or control of the National Association of Insurance Commissioners or third-party consultant under this chapter, are confidential and privileged and not subject to:

- (1) Chapter 552, Government Code;
- (2) a response to subpoena; or
- (3) discovery or admissibility in evidence in any civil action.

(b) Documents, materials, or other information, including a summary report prepared under this chapter and additional information submitted under Section 830.007, in the possession or control of the department that is obtained by, created by, or disclosed to the commissioner or any other person under this chapter is recognized by this state as being proprietary and to contain trade secrets.

(c) The commissioner may use the documents, materials, or other information described in this section to further any regulatory or legal action brought as part of the commissioner's official duties. The commissioner shall not otherwise make the

documents, materials, or other information public without the prior written consent of the insurer.

(d) The commissioner and any other person who receives own risk and solvency assessment-related information under this chapter, in an examination, or otherwise under any other law may not testify or be required to testify in any private civil action concerning any documents, materials, or information subject to Subsection (a) or (b).

(e) In order to assist in the performance of the commissioner's regulatory duties, the commissioner may, on request, share documents, materials, or other own risk and solvency assessment-related information, including confidential and privileged documents, materials, or information subject to Subsection (a) or (b) or confidential or privileged documents, materials, or information subject to Chapter 401, 404, or 823, as necessary, with:

(1) other state, federal, and international financial regulatory agencies or insurance supervisors;

(2) members of a supervisory college described in Section 823.0145;

(3) the National Association of Insurance Commissioners; or

(4) a third-party consultant designated by the commissioner.

(f) Before the commissioner may share information under this section, the recipient of the information shall:

(1) agree in writing to maintain the confidential and privileged status of the documents, materials, or other information shared under this section; and

(2) verify in writing the recipient's legal authority to maintain the confidential and privileged status of that information.

(g) The commissioner may receive documents, materials, or other own risk and solvency assessment-related information or any other relevant information, including otherwise confidential and privileged documents, materials, or information and proprietary and trade-secret information or documents, from:

(1) a regulatory official of a foreign or domestic jurisdiction, including a member of a supervisory college described in Section 823.0145; and

(2) the National Association of Insurance Commissioners.

(h) The commissioner shall maintain as confidential or privileged any documents, materials, or information received under Subsection (g) with notice and understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information.

Added by Acts 2015, 84th Leg., R.S., Ch. 39 (S.B. 655), Sec. 1, eff. May 19, 2015.

Sec. 830.009. AGREEMENT CONCERNING CONFIDENTIAL AND PRIVILEGED INFORMATION. (a) The commissioner shall enter into a written agreement with the National Association of Insurance Commissioners or a third-party consultant that governs the sharing and use of information provided under this chapter. The agreement must comply with and contain all the requirements listed in this section.

(b) The agreement must specify procedures and protocols regarding the confidentiality and security of information shared with the National Association of Insurance Commissioners or third-party consultant under this chapter, including procedures and protocols for sharing by the National Association of Insurance Commissioners with other state regulators from states in which the insurance group has domiciled insurers.

(c) The agreement must provide that the recipient:

(1) agrees in writing to maintain the confidential and privileged status of the own risk and solvency assessment-related documents, materials, or other information; and

(2) has verified in writing the legal authority to maintain the confidential and privileged status of the information.

(d) The agreement must specify that ownership of information shared with the National Association of Insurance Commissioners or third-party consultant under this chapter remains with the commissioner and that the National Association of

Insurance Commissioners' or third-party consultant's use of the information is subject to the direction of the commissioner.

(e) The agreement must prohibit the National Association of Insurance Commissioners or third-party consultant from storing the information shared under this chapter in a permanent database after the underlying analysis is completed.

(f) The agreement must require prompt notice to be given to an insurer whose confidential information in the possession of the National Association of Insurance Commissioners or third-party consultant under this chapter is subject to a request or subpoena to the National Association of Insurance Commissioners or third-party consultant for disclosure or production.

(g) The agreement must require the National Association of Insurance Commissioners or third-party consultant to consent to intervention by an insurer in any judicial or administrative action in which the National Association of Insurance Commissioners or third-party consultant may be required to disclose confidential information about the insurer shared with the National Association of Insurance Commissioners or third-party consultant under this chapter.

(h) The agreement must provide for the insurer's written consent in the case of an agreement involving a third-party consultant.

Added by Acts 2015, 84th Leg., R.S., Ch. 39 (S.B. 655), Sec. 1, eff. May 19, 2015.

Sec. 830.010. AUTHORITY OF COMMISSIONER NOT AFFECTED. The commissioner's sharing of information and documents under this chapter does not constitute a delegation of regulatory authority or rulemaking, and the commissioner is solely responsible for the administration, execution, and enforcement of the provisions of this chapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 39 (S.B. 655), Sec. 1, eff. May 19, 2015.

Sec. 830.011. PRIVILEGE AND CONFIDENTIALITY NOT WAIVED. A waiver of an applicable privilege or claim of confidentiality in a

document, proprietary and trade-secret materials, or other own risk and solvency assessment-related information does not occur as a result of disclosure of the document, materials, or other information to the commissioner under this chapter or as a result of sharing as authorized by this chapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 39 (S.B. 655), Sec. 1, eff. May 19, 2015.

Sec. 830.012. ADMINISTRATIVE PENALTY. (a) An insurer that, without good cause, fails to timely file the summary report as required by this chapter commits a violation subject to an administrative penalty under Chapter 84.

(b) Each day the violation continues is a separate violation for purposes of this section.

(c) The commissioner may reduce the amount of the penalty assessed under this section if the insurer demonstrates to the commissioner that the imposition of the penalty would constitute a financial hardship to the insurer.

Added by Acts 2015, 84th Leg., R.S., Ch. 39 (S.B. 655), Sec. 1, eff. May 19, 2015.