

By: Smithee

H.B. No. 3086

Substitute the following for H.B. No. 3086:

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C.S.H.B. No. 3086

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to credit to certain ceding insurers for reinsurance ceded  
3 to certain certified assuming insurers.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 492.102(a), Insurance Code, is amended  
6 to read as follows:

7 (a) A ceding insurer may be allowed credit for reinsurance  
8 ceded, as an asset or as a deduction from liability, only if the  
9 reinsurance is ceded to an assuming insurer that:

10 (1) is authorized to engage in the business of  
11 insurance or reinsurance in this state;

12 (2) is accredited as a reinsurer in this state, as  
13 provided by Section 492.103; ~~or~~

14 (3) subject to Subchapter D, maintains, in a qualified  
15 United States financial institution that has been granted the  
16 authority to operate with fiduciary powers, a trust fund to pay  
17 valid claims of:

18 (A) the assuming insurer's United States  
19 policyholders and ceding insurers; and

20 (B) the policyholders' and ceding insurers'  
21 assigns and successors in interest; or

22 (4) is determined by the commissioner to meet the  
23 requirements of Section 492.1035.

24 SECTION 2. Subchapter C, Chapter 492, Insurance Code, is

1 amended by adding Sections 492.1035, 492.1036, and 492.1037 to read  
2 as follows:

3 Sec. 492.1035. CREDIT FOR CERTAIN CERTIFIED REINSURERS. (a)

4 An asset or deduction from liability shall be allowed for  
5 reinsurance ceded to an assuming insurer that the commissioner  
6 certifies as a reinsurer and that secures its obligations in  
7 accordance with the requirements of this section.

8 (b) The commissioner may certify an assuming insurer that:

9 (1) is domiciled and licensed to transact insurance or  
10 reinsurance in a qualified jurisdiction under Subsections (e)-(g);

11 (2) maintains minimum capital and a surplus in an  
12 amount the commissioner determines acceptable;

13 (3) maintains a financial strength rating from two or  
14 more rating agencies the commissioner determines are acceptable;

15 (4) submits to this state's jurisdiction;

16 (5) designates the commissioner as an agent for  
17 service of process in any action, suit, or proceeding instituted in  
18 this state;

19 (6) provides security for 100 percent of the assuming  
20 insurer's liabilities for reinsurance ceded by United States ceding  
21 insurers if the assuming reinsurer resists enforcement of a valid,  
22 nonappealable United States judgment; and

23 (7) satisfies other requirements for certification  
24 the commissioner determines relevant.

25 (c) A ceding insurer or certified reinsurer may apply to the  
26 commissioner for a waiver from the requirement of Subsection  
27 (b)(6). The commissioner may enter an order that grants a waiver

1 from these requirements if the commissioner determines the waiver  
2 is appropriate in the interests of ensuring market stability.

3 (d) The commissioner may certify a group of insurers,  
4 including incorporated and individual unincorporated underwriters,  
5 as a certified reinsurer if, in addition to satisfying requirements  
6 of Subsection (a):

7 (1) the group of insurers satisfies minimum capital  
8 and surplus requirements in an amount determined by the  
9 commissioner to provide adequate protection by placing the group  
10 and its members' capital and surplus equivalents into a joint  
11 central fund that may be applied to an unsatisfied obligation of the  
12 group or its members;

13 (2) each incorporated member of the group of insurers  
14 is not engaged as a member of the group in business other than  
15 underwriting and is subject to the same level of regulation and  
16 solvency control by the group's domiciliary regulator as the  
17 unincorporated members; and

18 (3) the group of insurers provides to the  
19 commissioner, not later than the 90th day after the date the group's  
20 financial statements are due to be filed with the group's  
21 domiciliary regulator, the annual certification of solvency of  
22 each underwriter member by the group's domiciliary regulator, or if  
23 a certification is unavailable, financial statements prepared by  
24 independent public accountants of each underwriter member of the  
25 group.

26 (e) The commissioner shall publish a list of qualified  
27 jurisdictions with respect to which an assuming insurer licensed

1 and domiciled in the jurisdiction may be considered for  
2 certification by the commissioner as a certified reinsurer.

3 (f) To determine whether a jurisdiction of an assuming  
4 insurer located outside of the United States may be eligible to be a  
5 qualified jurisdiction, the commissioner must:

6 (1) evaluate the appropriateness and effectiveness of  
7 the reinsurance supervisory system of the jurisdiction, both  
8 initially and on an ongoing basis; and

9 (2) consider whether that jurisdiction imposes credit  
10 for reinsurance requirements on reinsurers licensed and domiciled  
11 in the United States that are at least as favorable as those  
12 provided by this section.

13 (g) A qualified jurisdiction must share information and  
14 cooperate with the commissioner with respect to all certified  
15 reinsurers doing business within the jurisdiction. Jurisdictions  
16 within the United States that meet the requirement for  
17 accreditation under the National Association of Insurance  
18 Commissioners' financial standards and accreditation program shall  
19 be recognized as qualified jurisdictions. A jurisdiction may not  
20 be recognized as a qualified jurisdiction if the commissioner has  
21 determined that the jurisdiction does not adequately and promptly  
22 enforce final United States judgments and arbitration awards. The  
23 commissioner may also:

24 (1) defer to a list of qualified jurisdictions  
25 published by the National Association of Insurance Commissioners;  
26 and

27 (2) suspend a reinsurer's certification indefinitely,

1 if a certified reinsurer's domiciliary jurisdiction ceases to be a  
2 qualified jurisdiction.

3 (h) The commissioner shall develop a rating system and  
4 assign a rating to each certified reinsurer. The commissioner  
5 shall publish a list of each certified reinsurer and the certified  
6 reinsurer's rating. In rating certified reinsurers, the  
7 commissioner shall consider:

8 (1) the certified reinsurer's financial strength  
9 ratings assigned by rating agencies recognized by the commissioner;  
10 and

11 (2) the reinsurer's reputation for promptly paying  
12 claims to United States ceding insurers, including cases in which  
13 the reinsurer has resisted the enforcement of a final United States  
14 judgment.

15 (i) The commissioner shall determine the security a  
16 certified reinsurer must maintain on obligations assumed from  
17 ceding insurers domiciled in this state at a level consistent with  
18 its rating.

19 (j) A domestic ceding insurer may qualify for full financial  
20 statement credit for reinsurance ceded to a certified reinsurer if  
21 the certified reinsurer maintains security:

22 (1) in a form acceptable to the commissioner and  
23 consistent with the insurance laws of this state; or

24 (2) in a trust in accordance with Subchapter D, except  
25 as otherwise provided.

26 (k) If a certified reinsurer maintains a trust under  
27 Subchapter D to secure its obligations, the certified reinsurer

1 shall maintain separate trust accounts for its obligations incurred  
2 under reinsurance agreements issued or renewed as a certified  
3 reinsurer with reduced security as permitted by this section or  
4 comparable laws of other United States jurisdictions and for its  
5 obligations subject to Subchapter D.

6 (1) The minimum trust surplus requirements in Subchapter D  
7 are not applicable to a multibeneficiary trust maintained by a  
8 certified reinsurer for the purpose of securing obligations  
9 incurred under this section.

10 (m) If a certified reinsurer insufficiently secures  
11 obligations incurred under this section, the commissioner:

12 (1) shall reduce the allowable credit by an amount  
13 proportionate to the deficiency; and

14 (2) may impose further reductions in allowable credit  
15 if the commissioner determines that there is a material risk the  
16 certified reinsurer will not pay its obligations in full when due.

17 (n) The commissioner shall require a certified reinsurer  
18 whose certification has been terminated under this section to  
19 secure 100 percent of its obligations. This subsection does not  
20 apply to a certified reinsurer with inactive status or to a  
21 reinsurer whose certification has been suspended, even if the  
22 commissioner assigns a higher rating to that reinsurer.

23 (o) If a jurisdiction accredited by the National  
24 Association of Insurance Commissioners certifies an applicant for  
25 certification as a reinsurer, the commissioner:

26 (1) may defer to that jurisdiction's certification and  
27 the rating assigned by that jurisdiction; and

1           (2) shall consider the assuming insurer a certified  
2 reinsurer.

3           (p) A certified reinsurer that ceases to assume new business  
4 in this state may request to maintain its certification in inactive  
5 status in order to continue to qualify for a reduction in security  
6 for its in-force business. An inactive certified reinsurer shall  
7 continue to comply with all applicable requirements of this section  
8 and the commissioner shall assign an applicable rating that  
9 describes why the reinsurer is not assuming new business.

10           Sec. 492.1036. SUSPENSION OR REVOCATION OF ACCREDITATION OR  
11 CERTIFICATION. The commissioner may suspend or revoke a  
12 reinsurer's accreditation or certification if an accredited or  
13 certified reinsurer ceases to meet the requirements for  
14 accreditation or certification. The commissioner must give the  
15 reinsurer notice and opportunity for hearing. The suspension or  
16 revocation may not take effect until after the commissioner's order  
17 on the hearing, unless:

18                   (1) the reinsurer waives its right to a hearing;

19                   (2) the suspension or revocation is based on a  
20 regulatory action in the reinsurer's domiciliary jurisdiction or  
21 United States port of entry, or on the voluntary surrender or  
22 termination of the reinsurer's eligibility to transact insurance or  
23 reinsurance business in its domiciliary jurisdiction or in its  
24 United States port of entry; or

25                   (3) the commissioner determines that an emergency  
26 requires immediate action and a court of competent jurisdiction has  
27 not stayed the commissioner's action.

1       Sec. 492.1037. CONTINUED CREDIT FOLLOWING CHANGE OR  
2 WITHDRAWAL IN RATING, ACCREDITATION, OR CERTIFICATION.  
3 Notwithstanding the change or withdrawal of a reinsurer's rating,  
4 accreditation, or certification, on request by the ceding insurer,  
5 the commissioner may, in the interest of ensuring market stability  
6 and the solvency of the ceding insurer, authorize the ceding  
7 insurer to continue to take credit for all or part of the  
8 recoverable reinsurance that relates to the change or withdrawal  
9 for a specified period following the change or withdrawal.

10       SECTION 3. Section 492.151, Insurance Code, is amended to  
11 read as follows:

12       Sec. 492.151. APPLICABILITY OF SUBCHAPTER. This subchapter  
13 applies to:

14           (1) a trust that is used to qualify for a reinsurance  
15 credit under Section 492.102(a)(3) and as described by Sections  
16 492.1035(j) and (k); and

17           (2) [~~to~~] the assuming insurer that maintains the trust  
18 fund.

19       SECTION 4. Section 492.152, Insurance Code, is amended by  
20 adding Subsection (c) to read as follows:

21       (c) The commissioner may, after assessing the risk and  
22 determining that the new required surplus level is adequate for the  
23 protection of United States ceding insurers, policyholders, and  
24 claimants in light of reasonably foreseeable adverse loss  
25 development, authorize a reduction in the required trusted surplus  
26 under Subsection (a)(2) if the assuming insurer has discontinued  
27 underwriting new business secured by the trust for more than three



1 years. The risk assessment may involve an actuarial review,  
2 including an independent analysis of reserves and cash flows, and  
3 must consider all material risk factors, including, if applicable,  
4 the lines of business involved, the stability of the incurred loss  
5 estimates, and the effect of the surplus requirements on the  
6 assuming insurer's liquidity or solvency. The minimum required  
7 trusteed surplus may not be reduced to an amount less than 30  
8 percent of the assuming insurer's liabilities attributable to  
9 reinsurance ceded by United States ceding insurers.

10 SECTION 5. Section 492.155(b), Insurance Code, is amended  
11 to read as follows:

12 (b) To enable the commissioner to determine the sufficiency  
13 of the trust fund under Section 492.102(a)(3) and for purposes of  
14 Sections 492.1035(j) and (k), the assuming insurer shall report to  
15 the department not later than March 1 of each year information  
16 substantially the same as the information required to be reported  
17 by an authorized insurer on the National Association of Insurance  
18 Commissioners' Annual Statement form.

19 SECTION 6. Section 492.156(a), Insurance Code, is amended  
20 to read as follows:

21 (a) A ceding insurer may not be allowed credit under Section  
22 492.102(a)(3) for reinsurance ceded to an assuming insurer that is  
23 not authorized, ~~or~~ accredited, or certified to engage in the  
24 business of insurance or reinsurance in this state unless the  
25 assuming insurer agrees in the reinsurance contract:

26 (1) that, if the assuming insurer fails to perform the  
27 assuming insurer's obligations under the reinsurance contract, the

1 assuming insurer, at the request of the ceding insurer, will:

2 (A) submit to the jurisdiction of a court in any  
3 state of the United States;

4 (B) comply with all requirements necessary to  
5 give the court jurisdiction; and

6 (C) abide by the final decision of that court or,  
7 if the court's decision is appealed, of the appellate court; and

8 (2) to designate the commissioner or an attorney as an  
9 agent for service of process in any action, suit, or proceeding  
10 instituted by or on behalf of the ceding insurer.

11 SECTION 7. Section 493.102(a), Insurance Code, is amended  
12 to read as follows:

13 (a) A ceding insurer may be allowed credit for reinsurance  
14 ceded, as an asset or as a deduction from liability, only if the  
15 reinsurance is ceded to an assuming insurer that:

16 (1) is authorized to engage in the business of  
17 insurance or reinsurance in this state;

18 (2) is accredited as a reinsurer in this state, as  
19 provided by Section 493.103; ~~or~~

20 (3) subject to Subchapter D, maintains, in a qualified  
21 United States financial institution that has been granted the  
22 authority to operate with fiduciary powers, a trust fund to pay  
23 valid claims of:

24 (A) the assuming insurer's United States  
25 policyholders and ceding insurers; and

26 (B) the policyholders' and ceding insurers'  
27 assigns and successors in interest; or

1           (4) the commissioner determines meets the  
2 requirements of Section 493.1035.

3           SECTION 8. Subchapter C, Chapter 493, Insurance Code, is  
4 amended by adding Sections 493.1035, 493.1036, and 493.1037 to read  
5 as follows:

6           Sec. 493.1035. CREDIT FOR CERTAIN CERTIFIED REINSURERS.

7 (a) An asset or deduction from liability shall be allowed for  
8 reinsurance ceded to an assuming insurer that the commissioner  
9 certifies as a reinsurer and that secures its obligations in  
10 accordance with the requirements of this section.

11           (b) The commissioner may certify an assuming insurer that:

12           (1) is domiciled and licensed to transact insurance or  
13 reinsurance in a qualified jurisdiction under Subsections (e)-(g);

14           (2) maintains minimum capital and a surplus in an  
15 amount the commissioner determines acceptable;

16           (3) maintains a financial strength rating from two or  
17 more rating agencies the commissioner determines are acceptable;

18           (4) submits to this state's jurisdiction;

19           (5) designates the commissioner as an agent for  
20 service of process in any action, suit, or proceeding instituted in  
21 this state;

22           (6) provides security for 100 percent of the assuming  
23 insurer's liabilities for reinsurance ceded by United States ceding  
24 insurers if the assuming reinsurer resists enforcement of a valid,  
25 nonappealable United States judgment; and

26           (7) satisfies other requirements for certification  
27 the commissioner determines relevant.

1       (c) A ceding insurer or certified reinsurer may apply to the  
2 commissioner for a waiver from the requirement of Subsection  
3 (b)(6). The commissioner may enter an order that grants a waiver  
4 from these requirements if the commissioner determines the waiver  
5 is appropriate in the interests of ensuring market stability.

6       (d) The commissioner may certify a group of insurers,  
7 including incorporated and individual unincorporated underwriters,  
8 as a certified reinsurer if, in addition to satisfying requirements  
9 of Subsection (a):

10       (1) the group of insurers satisfies minimum capital  
11 and surplus requirements in an amount determined by the  
12 commissioner to provide adequate protection by placing the group  
13 and its members' capital and surplus equivalents into a joint  
14 central fund that may be applied to an unsatisfied obligation of the  
15 group or its members;

16       (2) each incorporated member of the group of insurers  
17 is not engaged as a member of the group in business other than  
18 underwriting and is subject to the same level of regulation and  
19 solvency control by the group's domiciliary regulator as the  
20 unincorporated members; and

21       (3) the group of insurers provides to the  
22 commissioner, not later than the 90th day after the date the group's  
23 financial statements are due to be filed with the group's  
24 domiciliary regulator, the annual certification of solvency of  
25 each underwriter member by the group's domiciliary regulator, or if  
26 a certification is unavailable, financial statements prepared by  
27 independent public accountants of each underwriter member of the

1 group.

2 (e) The commissioner shall publish a list of qualified  
3 jurisdictions with respect to which an assuming insurer licensed  
4 and domiciled in the jurisdiction may be considered for  
5 certification by the commissioner as a certified reinsurer.

6 (f) To determine whether a jurisdiction of an assuming  
7 insurer located outside of the United States may be eligible to be a  
8 qualified jurisdiction, the commissioner must:

9 (1) evaluate the appropriateness and effectiveness of  
10 the reinsurance supervisory system of the jurisdiction, both  
11 initially and on an ongoing basis; and

12 (2) consider whether that jurisdiction imposes credit  
13 for reinsurance requirements on reinsurers licensed and domiciled  
14 in the United States that are at least as favorable as those  
15 provided by this section.

16 (g) A qualified jurisdiction must share information and  
17 cooperate with the commissioner with respect to all certified  
18 reinsurers doing business within the jurisdiction. Jurisdictions  
19 within the United States that meet the requirement for  
20 accreditation under the National Association of Insurance  
21 Commissioners' financial standards and accreditation program shall  
22 be recognized as qualified jurisdictions. A jurisdiction may not  
23 be recognized as a qualified jurisdiction if the commissioner has  
24 determined that the jurisdiction does not adequately and promptly  
25 enforce final United States judgments and arbitration awards. The  
26 commissioner may also:

27 (1) defer to a list of qualified jurisdictions

1 published by the National Association of Insurance Commissioners;  
2 and

3 (2) suspend a reinsurer's certification indefinitely,  
4 if a certified reinsurer's domiciliary jurisdiction ceases to be a  
5 qualified jurisdiction.

6 (h) The commissioner shall develop a rating system and  
7 assign a rating to each certified reinsurer. The commissioner  
8 shall publish a list of each certified reinsurer and the certified  
9 reinsurer's rating. In rating certified reinsurers, the  
10 commissioner shall consider:

11 (1) the certified reinsurer's financial strength  
12 ratings assigned by rating agencies recognized by the commissioner;  
13 and

14 (2) the reinsurer's reputation for promptly paying  
15 claims to United States ceding insurers, including cases in which  
16 the reinsurer has resisted the enforcement of a final United States  
17 judgment.

18 (i) The commissioner shall determine the security a  
19 certified reinsurer must maintain on obligations assumed from  
20 ceding insurers domiciled in this state at a level consistent with  
21 its rating.

22 (j) A domestic ceding insurer may qualify for full financial  
23 statement credit for reinsurance ceded to a certified reinsurer if  
24 the certified reinsurer maintains security:

25 (1) in a form acceptable to the commissioner and  
26 consistent with the insurance laws of this state; or

27 (2) in a trust in accordance with Subchapter D, except

1 as otherwise provided.

2 (k) If a certified reinsurer maintains a trust under  
3 Subchapter D to secure its obligations, the certified reinsurer  
4 shall maintain separate trust accounts for its obligations incurred  
5 under reinsurance agreements issued or renewed as a certified  
6 reinsurer with reduced security as permitted by this section or  
7 comparable laws of other United States jurisdictions and for its  
8 obligations subject to Subchapter D.

9 (l) The minimum trust surplus requirements in Subchapter D  
10 are not applicable to a multibeneficiary trust maintained by a  
11 certified reinsurer for the purpose of securing obligations  
12 incurred under this section.

13 (m) If a certified reinsurer insufficiently secures  
14 obligations incurred under this section, the commissioner:

15 (1) shall reduce the allowable credit by an amount  
16 proportionate to the deficiency; and

17 (2) may impose further reductions in allowable credit  
18 if the commissioner determines that there is a material risk the  
19 certified reinsurer will not pay its obligations in full when due.

20 (n) The commissioner shall require a certified reinsurer  
21 whose certification has been terminated under this section to  
22 secure 100 percent of its obligations. This subsection does not  
23 apply to a certified reinsurer with inactive status or to a  
24 reinsurer whose certification has been suspended, even if the  
25 commissioner assigns a higher rating to that reinsurer.

26 (o) If a jurisdiction accredited by the National  
27 Association of Insurance Commissioners certifies an applicant for

1 certification as a reinsurer, the commissioner:

2 (1) may defer to that jurisdiction's certification and  
3 the rating assigned by that jurisdiction; and

4 (2) shall consider the assuming insurer a certified  
5 reinsurer.

6 (p) A certified reinsurer that ceases to assume new business  
7 in this state may request to maintain its certification in inactive  
8 status in order to continue to qualify for a reduction in security  
9 for its in-force business. An inactive certified reinsurer shall  
10 continue to comply with all applicable requirements of this section  
11 and the commissioner shall assign an applicable rating that  
12 describes why the reinsurer is not assuming new business.

13 Sec. 493.1036. SUSPENSION OR REVOCATION OF ACCREDITATION OR  
14 CERTIFICATION. The commissioner may suspend or revoke a  
15 reinsurer's accreditation or certification if an accredited or  
16 certified reinsurer ceases to meet the requirements for  
17 accreditation or certification. The commissioner must give the  
18 reinsurer notice and opportunity for hearing. The suspension or  
19 revocation may not take effect until after the commissioner's order  
20 on the hearing, unless:

21 (1) the reinsurer waives its right to a hearing;

22 (2) the suspension or revocation is based on a  
23 regulatory action in the reinsurer's domiciliary jurisdiction or  
24 United States port of entry, or on the voluntary surrender or  
25 termination of the reinsurer's eligibility to transact insurance or  
26 reinsurance business in its domiciliary jurisdiction or in its  
27 United States port of entry; or



1           (3) the commissioner determines that an emergency  
2 requires immediate action and a court of competent jurisdiction has  
3 not stayed the commissioner's action.

4           Sec. 493.1037. CONTINUED CREDIT FOLLOWING CHANGE OR  
5 WITHDRAWAL IN RATING, ACCREDITATION, OR CERTIFICATION.

6 Notwithstanding the change or withdrawal of a reinsurer's rating,  
7 accreditation, or certification, on request by the ceding insurer,  
8 the commissioner may, in the interest of ensuring market stability  
9 and the solvency of the ceding insurer, authorize the ceding  
10 insurer to continue to take credit for all or part of the  
11 recoverable reinsurance that relates to the change or withdrawal  
12 for a specified period following the change or withdrawal.

13           SECTION 9. Section 493.151, Insurance Code, is amended to  
14 read as follows:

15           Sec. 493.151. APPLICABILITY OF SUBCHAPTER. This subchapter  
16 applies to:

17           (1) a trust that is used to qualify for a reinsurance  
18 credit under Section 493.102(a)(3) and as described by Sections  
19 493.1035(j) and (k); and

20           (2) [~~to~~] the assuming insurer that maintains the trust  
21 fund.

22           SECTION 10. Section 493.152, Insurance Code, is amended by  
23 adding Subsection (d) to read as follows:

24           (d) The commissioner may, after assessing the risk and  
25 determining that the new required surplus level is adequate for the  
26 protection of United States ceding insurers, policyholders, and  
27 claimants in light of reasonably foreseeable adverse loss

1 development, authorize a reduction in the required trusted surplus  
2 under Subsection (a)(2) if the assuming insurer has discontinued  
3 underwriting new business secured by the trust for more than three  
4 years. The risk assessment may involve an actuarial review,  
5 including an independent analysis of reserves and cash flows, and  
6 must consider all material risk factors, including, if applicable,  
7 the lines of business involved, the stability of the incurred loss  
8 estimates, and the effect of the surplus requirements on the  
9 assuming insurer's liquidity or solvency. The minimum required  
10 trusted surplus may not be reduced to an amount less than 30  
11 percent of the assuming insurer's liabilities attributable to  
12 reinsurance ceded by United States ceding insurers.

13 SECTION 11. Section 493.155(b), Insurance Code, is amended  
14 to read as follows:

15 (b) To enable the commissioner to determine the sufficiency  
16 of the trust fund under Section 493.102(a)(3) and for purposes of  
17 Sections 493.1035(j) and (k), the assuming insurer shall report to  
18 the department not later than March 1 of each year information  
19 substantially the same as the information required to be reported  
20 by an authorized insurer on the National Association of Insurance  
21 Commissioners' Annual Statement form.

22 SECTION 12. Section 493.156(a), Insurance Code, is amended  
23 to read as follows:

24 (a) A ceding insurer may not be allowed credit under Section  
25 493.102(a)(3) for reinsurance ceded to an assuming insurer that is  
26 not authorized, ~~or~~ accredited, or certified to engage in the  
27 business of insurance or reinsurance in this state unless the

1 assuming insurer agrees in the reinsurance contract:

2 (1) that, if the assuming insurer fails to perform the  
3 assuming insurer's obligations under the reinsurance contract, the  
4 assuming insurer, at the request of the ceding insurer, will:

5 (A) submit to the jurisdiction of a court in any  
6 state of the United States;

7 (B) comply with all requirements necessary to  
8 give the court jurisdiction; and

9 (C) abide by the final decision of that court or,  
10 if the court's decision is appealed, of the appellate court; and

11 (2) to designate the commissioner or an attorney as an  
12 agent for service of process in any action, suit, or proceeding  
13 instituted by or on behalf of the ceding insurer.

14 SECTION 13. This Act applies only to a reinsurance contract  
15 that is entered into or renewed on or after January 1, 2012. A  
16 reinsurance contract that is entered into or renewed before January  
17 1, 2012, is governed by the law as it existed immediately before the  
18 effective date of this Act, and that law is continued in effect for  
19 that purpose.

20 SECTION 14. This Act takes effect September 1, 2011.