

By: Smithee

H.B. No. 3086

A BILL TO BE ENTITLED

1 AN ACT

2 relating to credit for reinsurance allowed domestic ceding insurers
3 for reinsurance ceded to unauthorized assuming insurers determined
4 to be acceptable by the Commissioner.

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

6 SECTION 1. Section 1. Subchapter C, Chapter 493, Insurance
7 Code is amended to read as follows:

8 Sec. 493.102. CREDIT FOR REINSURANCE GENERALLY. (a) A
9 ceding insurer may be allowed credit for reinsurance ceded, as an
10 asset or as a deduction from liability, only if the reinsurance is
11 ceded to an assuming insurer that:

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

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

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

20 (A) the assuming insurer's United States
21 policyholders and ceding insurers; and

22 (B) the policyholders' and ceding insurers'
23 assigns and successors in interest; or

24 (4) is determined by the Commissioner to meet the

1 requirements of Section 493.108.

2 (b) Notwithstanding Subsection (a), a ceding insurer may be
3 allowed credit for reinsurance ceded to an assuming insurer that
4 does not meet the requirements of that subsection, but only with
5 respect to the insurance of risks located in a jurisdiction in which
6 the reinsurance is required by the jurisdiction's law, including
7 regulations, to be ceded to an assuming insurer that does not meet
8 the requirements of that subsection.

9 SECTION 2. Subchapter C, Chapter 493, Insurance Code, is
10 amended by adding Section 493.108 to read as follows:

11 Sec. 493.108. CREDIT ALLOWED FOR CERTAIN APPROVED
12 REINSURERS (a) An asset or deduction from liability shall be
13 allowed for reinsurance ceded to an assuming insurer which holds
14 surplus, or its equivalent, in excess of \$250 million and which the
15 Commissioner, in his or her discretion, determines is an acceptable
16 risk. In determining whether credit should be allowed under this
17 subsection, the Commissioner shall consider the following:

18 (1) That the reinsurer has a secure financial strength
19 rating from at least two nationally recognized statistical rating
20 organizations deemed acceptable by the commissioner. The
21 commissioner shall give appropriate consideration to insurer group
22 ratings that have been issued.

23 (2) The structure and authority of the domiciliary
24 regulator with regard to solvency regulation requirements and the
25 financial surveillance of the reinsurer.

26 (3) The substance of financial and operating standards
27 for reinsurers in the domiciliary jurisdiction.

1 (4) The form and substance of financial reports
2 required to be filed by the reinsurers in the domiciliary
3 jurisdiction or other public financial statements filed in
4 accordance with generally accepted accounting principles.

5 (5) The domiciliary regulator's willingness to
6 cooperate with United States regulators in general and the
7 Department of Insurance in particular, including the existence of
8 any memorandum of understanding which the Commissioner believes is
9 required to ensure necessary regulatory cooperation.

10 (6) Whether the domiciliary jurisdiction of the
11 reinsurer imposes credit for reinsurance requirements on US
12 reinsurers that are at least as favorable as those provided by the
13 provisions of Sections 493.101 through 493.108 of the Texas
14 Insurance Code.

15 (7) The history of performance by reinsurers in the
16 domiciliary jurisdiction.

17 (8) Any documented evidence of substantial problems
18 with enforcement of valid United States judgments in the
19 domiciliary jurisdiction.

20 (9) Any other matters deemed relevant by the
21 commissioner.

22 (b) The commissioner may, in lieu of granting full credit
23 under this section, reduce the amount required to be held under
24 Section 493.104.

25 SECTION 3. This Act applies only to a reinsurance contract
26 entered into or renewed on or after September 1, 2011.

27 SECTION 4. This Act takes effect September 1, 2011.