

BILL ANALYSIS

C.S.H.B. 837
By: Eiland
Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that under current law, reinsurers that are not licensed in the United States, unlike their licensed counterparts, must provide collateral in the amount of their liabilities for the reinsurance they write for insurers based in the United States. Concerns have been raised that this requirement ties up capital that could be used to write more reinsurance and creates frictional costs in the transactions of insurers based in the United States. C.S.H.B. 837 seeks to create a mechanism in Texas for the commissioner of insurance to grant certain reinsurers the opportunity to conduct their business in the United States with less than full collateral for their cedents based on the state regulator's analysis, subject to certain approval.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of insurance in SECTIONS 2 and 9 of this bill.

ANALYSIS

C.S.H.B. 837 amends the Insurance Code to require a ceding life, health, or accident insurer; health maintenance organization; or property and casualty insurer to be allowed credit for reinsurance ceded, as an asset or as a deduction from liability, when the reinsurance is ceded to an assuming insurer that is determined by the commissioner of insurance to meet the requirements of certain provisions of the bill. The bill requires credit to be allowed when the reinsurance is ceded to an assuming insurer that is certified by the commissioner as a reinsurer in Texas and that secures its obligations in accordance with certain requirements set out by the bill. The bill requires an assuming insurer, in order to be eligible for certification, to be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction; maintain minimum capital and surplus in an amount required by commissioner rule; maintain a financial strength rating from not fewer than two rating agencies determined to be acceptable in accordance with commissioner rule; agree to submit to the jurisdiction of any court of competent jurisdiction in any state; appoint the commissioner as its agent for service of process in Texas; provide security for 100 percent of the assuming insurer's liabilities for reinsurance ceded by United States ceding insurers if the assuming insurer resists enforcement of a final judgment of a court of the United States; meet application information filing requirements established by commissioner rule; and satisfy any other requirements for certification required by commissioner rule.

C.S.H.B. 837 authorizes an association that includes incorporated and individual unincorporated underwriters to be a certified reinsurer, provided that the association satisfies the eligibility requirements established for certification of an assuming insurer. The bill requires the association to satisfy minimum capital and surplus requirements through the capital and surplus equivalents, net of liabilities, of the association and its members, that must include a joint central fund, in an amount determined by the commissioner to provide adequate protection, that may be applied to any unsatisfied obligation of the association or any of its members. The bill prohibits the incorporated members of the association from engaging in any business other than underwriting while acting as members of the association and makes those members subject to the

same level of regulation and solvency control by the association's domiciliary regulator as the unincorporated members. The bill requires the association, not later than the 90th day after the date the association's financial statements are due to be filed with the association's domiciliary regulator, to provide to the commissioner certain documentation regarding the finances of each underwriter member.

C.S.H.B. 837 requires the commissioner to develop and publish a list of qualified jurisdictions in which an assuming insurer may be licensed and domiciled in order to be considered for certification by the commissioner as an assuming insurer. The bill requires the commissioner, in developing the list, to consider the list of qualified jurisdictions published through the National Association of Insurance Commissioners (NAIC) committee process and sets out the manner in which the commissioner is required to determine whether a jurisdiction of an assuming insurer located outside of the United States is eligible to be recognized as a qualified jurisdiction. The bill requires a jurisdiction to agree to share information and cooperate with the commissioner with respect to all certified reinsurers doing business in the jurisdiction in order to be a qualified jurisdiction. The bill prohibits a jurisdiction from being recognized as a qualified jurisdiction if the commissioner determines that it does not adequately and promptly enforce final United States judgments and arbitration awards and authorizes additional factors to be considered in the discretion of the commissioner. The bill requires the commissioner to provide documentation in accordance with rules adopted by the commissioner, if the commissioner approves a jurisdiction as qualified that does not appear on the NAIC list of qualified jurisdictions, and requires such rules to include a requirement for a thoroughly documented justification of the approval. The bill requires the commissioner to include on the list a United States jurisdiction that meets the requirement for accreditation under the NAIC financial standards and accreditation program. The bill authorizes the commissioner, if a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, to suspend the reinsurer's certification indefinitely, instead of revoking the certification.

C.S.H.B. 837 requires the commissioner to assign a rating to each certified reinsurer giving due consideration to the financial strength ratings that have been assigned by rating agencies determined to be acceptable in accordance with rules adopted by the commissioner and requires the commissioner to publish a list of the assigned ratings for all certified reinsurers. The bill requires a certified reinsurer to secure specified obligations that are assumed from ceding insurers domiciled in the United States at a level consistent with the rating assigned by the commissioner. The bill requires a domestic ceding insurer, in order to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, to maintain security in a form acceptable to the commissioner and consistent with state insurance laws or maintain security in a multibeneficiary trust.

C.S.H.B. 837 requires a certified reinsurer, if the reinsurer maintains a trust to secure its obligations for a trust credit allowance and chooses to secure its obligations incurred as a certified reinsurer with a multibeneficiary trust, to maintain separate trust accounts for the obligations incurred under reinsurance agreements the certified reinsurer issued or renewed with reduced security and for its obligations subject to requirements for a trust credit allowance. The bill establishes that it is a condition to the grant of certification that the certified reinsurer has bound itself to fund, on termination of the trust account, out the remaining surplus of the trust any deficiency of any other trust account. The bill exempts the multibeneficiary trust from minimum trustee surplus requirements applicable to a trust used to qualify for a reinsurance credit, but requires the trust to maintain a minimum trustee surplus of \$10,000,000.

C.S.H.B. 837 requires the commissioner, if security is insufficient with respect to obligations incurred by a certified reinsurer, to reduce the allowable credit by an amount proportionate to the deficiency and authorizes the commissioner to impose further reductions in allowable credit on finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due. The bill requires a reinsurer whose certification has been revoked, suspended, or voluntarily surrendered or whose certification status has become inactive to be treated as a

reinsurer required to secure 100 percent of its obligations. The bill makes the security requirement inapplicable to a reinsurer whose certification has been suspended or whose certification status has become inactive if the commissioner continues to assign a higher rating to the reinsurer.

C.S.H.B. 837 authorizes the commissioner, if an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, to defer to the accredited jurisdiction's certification and the rating assigned by that jurisdiction. The bill requires such an applicant to be considered a certified reinsurer in Texas.

C.S.H.B. 837 authorizes a certified reinsurer that ceases to assume new business in Texas to request to maintain its certification in inactive status to continue to qualify for a reduction in security for in-force business. The bill requires an inactive certified reinsurer to continue to comply with all applicable requirements and requires the commissioner to assign a rating that takes into account, if relevant, the reasons the reinsurer is not assuming new business.

C.S.H.B. 837 authorizes the commissioner, after notice and opportunity for a hearing, to suspend or revoke a reinsurer's accreditation or certification if the reinsurer ceases to meet the requirements for accreditation or certification. The bill prohibits the suspension or revocation from taking effect until after the date of the commissioner's order on the hearing, except under certain circumstances. The bill establishes that a reinsurance contract issued or renewed after the effective date of the suspension does not qualify for credit while the accreditation or certification is suspended, except to the extent that the reinsurer's obligations under the contract are secured in accordance with applicable statutory provisions. The bill prohibits credit for reinsurance from being granted after the effective date of the revocation of a reinsurer's accreditation or certification, except to the extent that the reinsurer's obligations under the contract are secured in accordance with applicable statutory provisions.

C.S.H.B. 837 requires a ceding insurer to manage its reinsurance recoverable proportionate to its book of business; requires a domestic ceding insurer to notify the commissioner not later than the 30th day after the date reinsurance recoverable from any single assuming insurer, or group of affiliated assuming insurers, exceeds or is likely to exceed 50 percent of the domestic ceding insurer's last reported surplus to policyholders; and requires such a notification to demonstrate that the exposure is safely managed by the domestic ceding insurer. The bill requires a ceding insurer to diversify its reinsurance program; requires a domestic ceding insurer to notify the commissioner not later than the 30th day after the date the insurer cedes to any single assuming insurer, or group of affiliated assuming insurers, an amount that exceeds or is likely to exceed 20 percent of the ceding insurer's gross written premium in the prior calendar year; and requires such a notification to demonstrate that the exposure is safely managed by the domestic ceding insurer.

C.S.H.B. 837 creates an exception to the requirement for a trust that is used to qualify for a reinsurance credit to include a trustee surplus of at least \$20 million, if the assuming insurer is a single insurer, by authorizing the commissioner with principal regulatory oversight of the trust to authorize a reduction in the required trustee surplus after the assuming insurer has permanently discontinued underwriting new business secured by the trust for not less than three calendar years, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development. The bill authorizes such a risk assessment to involve an actuarial review and requires the assessment to consider all material risk factors. The bill prohibits the reduction of the minimum required trustee surplus to an amount less than 30 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers.

C.S.H.B. 837 prohibits a ceding insurer from being allowed credit for reinsurance ceded to a trustee assuming insurer that is not authorized to engage in the business of insurance or

reinsurance in Texas or accredited as a reinsurer in Texas, unless the assuming insurer agrees to specified provisions in the trust agreements.

C.S.H.B. 837 applies its provisions to a reinsurance contract that is entered into or renewed on or after January 1, 2014.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 837 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 492.102(a), Insurance Code, is amended.

SECTION 1. Same as introduced version.

SECTION 2. Subchapter C, Chapter 492, Insurance Code, is amended by adding Sections 492.1033, 492.1034, 492.1035, 492.1036, 492.1037, 492.1038, and 492.1039 to read as follows:

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Sec. 492.1033. CREDIT ALLOWED FOR CERTAIN CERTIFIED REINSURERS.

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Sec. 492.1034. CERTAIN ASSOCIATIONS MAY BE CERTIFIED REINSURERS.

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Sec. 492.1035. QUALIFIED JURISDICTIONS.

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Sec. 492.1036. FINANCIAL REQUIREMENTS FOR CERTIFIED REINSURER. (a) The commissioner shall assign a financial strength rating to each certified reinsurer after considering the financial strength ratings that have been assigned by rating agencies recognized by the commissioner.

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(b) The commissioner shall publish a list of the ratings assigned under this section for all certified reinsurers.

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(c) A certified reinsurer shall secure obligations assumed from ceding insurers domiciled in the United States in accordance with the rating assigned by the commissioner under Subsection (a) and in

(c) A certified reinsurer shall secure obligations under this section that are assumed from ceding insurers domiciled in the United States at a level consistent with the rating assigned by the commissioner.

accordance with this section.

(d) For a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer must maintain security:

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

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

(e) If a certified reinsurer maintains a trust under Subchapter D to secure its obligations, and chooses to secure its obligations incurred as a certified reinsurer with a multibeneficiary trust, the certified reinsurer shall maintain separate trust accounts for the obligations incurred under reinsurance agreements the certified reinsurer issued or renewed with reduced security as permitted by this section or comparable laws of other United States jurisdictions and for its obligations subject to Subchapter D. It is a condition to the grant of certification under this section that the certified reinsurer has bound itself, by the language of the trust agreement and agreement with the commissioner with principal regulatory oversight of each trust account, to fund, on termination of the trust account, out the remaining surplus of the trust any deficiency of any other trust account described by this subsection.

(f) The minimum trustee surplus requirements provided in Subchapter D do not apply to a multibeneficiary trust described by this section, except that the trust shall maintain a minimum trustee surplus of \$10,000,000.

(g) With respect to obligations incurred by a certified reinsurer under this section, if the security is insufficient, the commissioner:

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

(2) may impose further reductions in allowable credit on finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due.

(h) For purposes of this section, a reinsurer whose certification has been revoked, suspended, or voluntarily surrendered or whose certification status has become inactive for any reason shall be treated as a

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(h) For purposes of this section, a reinsurer whose certification has been revoked, suspended, or voluntarily surrendered or whose certification status has become inactive for any reason shall be treated as a

reinsurer required to secure 100 percent of its obligations, except that if the commissioner continues to assign to the reinsurer a higher financial strength rating as permitted by this section, the security requirement does not apply to a reinsurer whose certification has been suspended or whose certification status has become inactive.

Sec. 492.1037. CERTIFICATION BY NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS. If an applicant for certification has been certified as a reinsurer in a National Association of Insurance Commissioners accredited jurisdiction:

- (1) the commissioner may defer to the accredited jurisdiction's certification and the financial strength rating assigned by that jurisdiction; and
- (2) the applicant shall be considered to be a certified reinsurer in this state.

Sec. 492.1038. SUSPENSION OR REVOCATION OF CERTIFICATION; INACTIVE STATUS. (a) A certified reinsurer that ceases to assume new business in this state may request to maintain its certification in inactive status to continue to qualify for a reduction in security for in-force business. An inactive certified reinsurer shall continue to comply with all applicable requirements of this section, and the commissioner shall assign a financial strength rating that takes into account, if relevant, the reasons the reinsurer is not assuming new business.

(b) If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification, the commissioner may, after notice and opportunity for hearing, suspend or revoke the reinsurer's accreditation or certification. A suspension or revocation may not take effect until after the date of the commissioner's order on the hearing, unless:
(1) the reinsurer waives its right to hearing;
(2) the commissioner's order is based on regulatory action by the reinsurer's domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state

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(1) the reinsurer waives its right to hearing;
(2) the commissioner's order is based on regulatory action by the reinsurer's domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state of the reinsurer under this section; or

of the reinsurer under this section; or
(3) the commissioner finds that an emergency requires immediate action and a court of competent jurisdiction has not stayed the commissioner's action.

(c) While a reinsurer's accreditation or certification is suspended, a reinsurance contract issued or renewed after the effective date of the suspension does not qualify for credit except to the extent that the reinsurer's obligations under the contract are secured in accordance with Subchapter D.

(d) If a reinsurer's accreditation or certification is revoked, credit for reinsurance may not be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the contract are secured in accordance with Section 492.1036 or Subchapter D.

Sec. 492.1039. CONCENTRATION RISK.

SECTION 3. Section 492.151, Insurance Code, is amended.

SECTION 4. Section 492.152, Insurance Code, is amended.

SECTION 5. Section 492.155(b), Insurance Code, is amended.

SECTION 6. Section 492.156(a), Insurance Code, is amended.

No equivalent provision.

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

(c) While a reinsurer's accreditation or certification is suspended, a reinsurance contract issued or renewed after the effective date of the suspension does not qualify for credit except to the extent that the reinsurer's obligations under the contract are secured in accordance with Subchapter D.

(d) If a reinsurer's accreditation or certification is revoked, credit for reinsurance may not be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the contract are secured in accordance with Section 492.1036 or Subchapter D.

Sec. 492.1039. CONCENTRATION RISK.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.

SECTION 6. Same as introduced version.

SECTION 7. Subchapter D, Chapter 492, Insurance Code, is amended by adding Section 492.1561 to read as follows:

Sec. 492.1561. CERTAIN TRUSTEED ASSUMING REINSURERS; REQUIREMENTS FOR TRUST AGREEMENTS. (a) In this section, "commissioner" means the insurance commissioner or other chief insurance regulatory official with principal regulatory oversight over the trust.

(b) If the assuming insurer does not meet the requirements of Section 492.102(a)(1) or (2), the credit permitted by Section

492.102(a)(3) or (4) may not be allowed unless the assuming insurer agrees in the trust agreements that:

(1) notwithstanding any other provisions in the trust agreement, the trustee shall comply with an order of the commissioner or a court ordering the trustee to transfer to the commissioner all assets of the trust fund if:

(A) the trust fund is inadequate because the trust fund contains an amount that is less than the amount required by this subchapter;

or

(B) the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, or liquidation or a similar proceeding under the laws of the grantor's domiciliary state or country;

(2) claims in a proceeding described by Subdivision (1)(B) must be filed with the commissioner;

(3) the commissioner shall value the claims described by Subdivision (2) and distribute the assets of the trust under the laws of the trust's domiciliary state applicable to the liquidation of a domestic insurance company;

(4) if the commissioner determines that all or part of the trust assets are unnecessary to satisfy the claims of the grantor's ceding insurers domiciled in the United States, the commissioner shall return those unnecessary assets to the trustee for distribution in accordance with the trust agreement; and

(5) the grantor waives any right available under federal or state law that is inconsistent with this section.

SECTION 7. Section 493.102(a), Insurance Code, is amended.

SECTION 8. Same as introduced version.

SECTION 8. Subchapter C, Chapter 493, Insurance Code, is amended by adding Sections 493.1033, 493.1034, 493.1035, 493.1036, 493.1037, 493.1038, and 493.1039 to read as follows:

SECTION 9. Subchapter C, Chapter 493, Insurance Code, is amended by adding Sections 493.1033, 493.1034, 493.1035, 493.1036, 493.1037, 493.1038, and 493.1039 to read as follows:

Sec. 493.1033. CREDIT ALLOWED FOR CERTAIN CERTIFIED REINSURERS.

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Sec. 493.1034. CERTAIN ASSOCIATIONS MAY BE CERTIFIED REINSURERS.

Sec. 493.1034. Substantially the same as introduced version, but makes a technical correction.

Sec. 493.1035. QUALIFIED JURISDICTIONS.

Sec. 493.1036. FINANCIAL REQUIREMENTS FOR CERTIFIED REINSURER. (a) The commissioner shall assign a financial strength rating to each certified reinsurer after considering the financial strength ratings that have been assigned by rating agencies recognized by the commissioner.

(b) The commissioner shall publish a list of the ratings assigned under this section for all certified reinsurers.

(c) A certified reinsurer shall secure obligations assumed from ceding insurers domiciled in the United States in accordance with the rating assigned by the commissioner under Subsection (a) and in accordance with this section.

(d) For a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer must maintain security:

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

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

(e) If a certified reinsurer maintains a trust under Subchapter D to secure its obligations, and chooses to secure its obligations incurred as a certified reinsurer with a multibeneficiary trust, the certified reinsurer shall maintain separate trust accounts for the obligations incurred under reinsurance agreements the certified reinsurer issued or renewed with reduced security as permitted by this section or comparable laws of other United States jurisdictions and for its obligations subject to Subchapter D. It is a condition to the grant of certification under this section that the certified reinsurer has bound itself, by the language of the trust agreement and agreement with the commissioner with principal regulatory oversight of each trust account, to fund, on termination of the trust account, out the remaining surplus of the trust any deficiency of any other trust account described by this subsection.

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(b) The commissioner shall publish a list of the ratings assigned under this section for all certified reinsurers.

(c) A certified reinsurer shall secure obligations under this section that are assumed from ceding insurers domiciled in the United States at a level consistent with the rating assigned by the commissioner.

(d) For a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer must maintain security:

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

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(f) The minimum trusteed surplus

requirements provided in Subchapter D do not apply to a multibeneficiary trust described by this section, except that the trust shall maintain a minimum trusteed surplus of \$10,000,000.

(g) With respect to obligations incurred by a certified reinsurer under this section, if the security is insufficient, the commissioner:

(1) shall reduce the allowable credit by an amount proportionate to the deficiency; and
(2) may impose further reductions in allowable credit on finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due.

(h) For purposes of this section, a reinsurer whose certification has been revoked, suspended, or voluntarily surrendered or whose certification status has become inactive for any reason shall be treated as a reinsurer required to secure 100 percent of its obligations, except that if the commissioner continues to assign to the reinsurer a higher financial strength rating as permitted by this section, the security requirement does not apply to a reinsurer whose certification has been suspended or whose certification status has become inactive.

Sec. 493.1037. CERTIFICATION BY NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS. If an applicant for certification has been certified as a reinsurer in a National Association of Insurance Commissioners accredited jurisdiction:

(1) the commissioner may defer to the accredited jurisdiction's certification and the financial strength rating assigned by that jurisdiction; and
(2) the applicant shall be considered to be a certified reinsurer in this state.

Sec. 493.1038. SUSPENSION OR REVOCATION OF CERTIFICATION; INACTIVE STATUS. (a) A certified reinsurer that ceases to assume new business in this state may request to maintain its certification in inactive status to continue to qualify for a reduction in security for in-force business. An inactive certified reinsurer shall continue to comply with all applicable requirements of this section, and the commissioner shall assign a financial

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strength rating that takes into account, if relevant, the reasons the reinsurer is not assuming new business.

(b) If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification, the commissioner may, after notice and opportunity for hearing, suspend or revoke the reinsurer's accreditation or certification. A suspension or revocation may not take effect until after the date of the commissioner's order on the hearing, unless: (1) the reinsurer waives its right to hearing; (2) the commissioner's order is based on regulatory action by the reinsurer's domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state of the reinsurer under this section; or (3) the commissioner finds that an emergency requires immediate action and a court of competent jurisdiction has not stayed the commissioner's action.

(c) While a reinsurer's accreditation or certification is suspended, a reinsurance contract issued or renewed after the effective date of the suspension does not qualify for credit except to the extent that the reinsurer's obligations under the contract are secured in accordance with Subchapter D.

(d) If a reinsurer's accreditation or certification is revoked, credit for reinsurance may not be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the contract are secured in accordance with Section 493.1036 or Subchapter D.

Sec. 493.1039. CONCENTRATION RISK.

SECTION 9. Section 493.151, Insurance Code, is amended.

SECTION 10. Section 493.152, Insurance Code, is amended.

SECTION 11. Section 493.155(b), Insurance Code, is amended.

takes into account, if relevant, the reasons the reinsurer is not assuming new business.

(b) If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification, the commissioner may, after notice and opportunity for hearing, suspend or revoke the reinsurer's accreditation or certification. A suspension or revocation may not take effect until after the date of the commissioner's order on the hearing, unless: (1) the reinsurer waives its right to hearing; (2) the commissioner's order is based on regulatory action by the reinsurer's domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state of the reinsurer under this section; or (3) the commissioner finds that an emergency requires immediate action and a court of competent jurisdiction has not stayed the commissioner's action.

(c) While a reinsurer's accreditation or certification is suspended, a reinsurance contract issued or renewed after the effective date of the suspension does not qualify for credit except to the extent that the reinsurer's obligations under the contract are secured in accordance with Subchapter D.

(d) If a reinsurer's accreditation or certification is revoked, credit for reinsurance may not be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the contract are secured in accordance with Section 493.1036 or Subchapter D.

Sec. 493.1039. CONCENTRATION RISK.

SECTION 10. Same as introduced version.

SECTION 11. Same as introduced version.

SECTION 12. Same as introduced version.

SECTION 12. Section 493.156(a), Insurance Code, is amended.

SECTION 13. Same as introduced version.

No equivalent provision.

SECTION 14. Subchapter D, Chapter 493, Insurance Code, is amended by adding Section 493.1561 to read as follows:

Sec. 493.1561. CERTAIN TRUSTEED ASSUMING REINSURERS; REQUIREMENTS FOR TRUST AGREEMENTS. (a) In this section, "commissioner" means the insurance commissioner or other chief insurance regulatory official with principal regulatory oversight over the trust.

(b) If the assuming insurer does not meet the requirements of Section 493.102(a)(1) or (2), the credit permitted by Section 493.102(a)(3) or (4) may not be allowed unless the assuming insurer agrees in the trust agreements that:

(1) notwithstanding any other provisions in the trust agreement, the trustee shall comply with an order of the commissioner or a court ordering the trustee to transfer to the commissioner all assets of the trust fund if:

(A) the trust fund is inadequate because the trust fund contains an amount that is less than the amount required by this subchapter; or

(B) the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, or liquidation or a similar proceeding under the laws of the grantor's domiciliary state or country;

(2) claims in a proceeding described by Subdivision (1)(B) must be filed with the commissioner;

(3) the commissioner shall value the claims described by Subdivision (2) and distribute the assets of the trust under the laws of the trust's domiciliary state applicable to the liquidation of a domestic insurance company;

(4) if the commissioner determines that all or part of the trust assets are unnecessary to satisfy the claims of the grantor's ceding insurers domiciled in the United States, the commissioner shall return those unnecessary assets to the trustee for distribution in accordance with the trust agreement; and

(5) the grantor waives any right available under federal or state law that is inconsistent with this section.

SECTION 13. This Act applies only to a reinsurance contract that is entered into or renewed on or after January 1, 2014. A reinsurance contract that is entered into or renewed before January 1, 2014, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 14. This Act takes effect September 1, 2013.

SECTION 15. Same as introduced version.

SECTION 16. Same as introduced version.