

By: Eiland

H.B. No. 837

A BILL TO BE ENTITLED

AN ACT

relating to credit to certain ceding insurers for reinsurance ceded to certain certified assuming insurers.

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

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

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

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

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

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

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

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

(4) is determined by the commissioner to meet the requirements of Sections 492.1033-492.1038, as applicable.

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

1 amended by adding Sections 492.1033, 492.1034, 492.1035, 492.1036,
2 492.1037, 492.1038, and 492.1039 to read as follows:

3 Sec. 492.1033. CREDIT ALLOWED FOR CERTAIN CERTIFIED
4 REINSURERS. (a) Credit shall be allowed when the reinsurance is
5 ceded to an assuming insurer that:

6 (1) is certified by the commissioner as a reinsurer in
7 this state; and

8 (2) secures its obligations in accordance with the
9 requirements of this section and Sections 492.1034-492.1038.

10 (b) To be eligible for certification, the assuming insurer
11 must:

12 (1) be domiciled and licensed to transact insurance or
13 reinsurance in a jurisdiction listed as qualified on the list
14 published by the commissioner under Section 492.1035;

15 (2) maintain minimum capital and surplus in an amount
16 required by the commissioner by rule;

17 (3) maintain a financial strength rating from not
18 fewer than two rating agencies determined to be acceptable in
19 accordance with rules adopted by the commissioner;

20 (4) agree to submit to the jurisdiction of any court of
21 competent jurisdiction in any state of the United States;

22 (5) appoint the commissioner as its agent for service
23 of process in this state;

24 (6) provide security for 100 percent of the assuming
25 insurer's liabilities for reinsurance ceded by United States ceding
26 insurers if the assuming insurer resists enforcement of a final
27 judgment of a court of the United States;

1 (7) meet application information filing requirements
2 as established by the commissioner by rule, for the initial
3 application for certification and on an ongoing basis; and

4 (8) satisfy any other requirements for certification
5 required by rule adopted by the commissioner.

6 Sec. 492.1034. CERTAIN ASSOCIATIONS MAY BE CERTIFIED
7 REINSURERS. (a) An association that includes incorporated and
8 individual unincorporated underwriters may be a certified
9 reinsurer under Section 492.1033. To be eligible for certification
10 the association must satisfy the requirements of Section 492.1033
11 and this section.

12 (b) The association must satisfy minimum capital and
13 surplus requirements through the capital and surplus equivalents,
14 net of liabilities, of the association and its members, that must
15 include a joint central fund, in an amount determined by the
16 commissioner to provide adequate protection, that may be applied to
17 any unsatisfied obligation of the association or any of its
18 members.

19 (c) The incorporated members of the association acting as
20 members of the association may not be engaged in any business other
21 than underwriting and are subject to the same level of regulation
22 and solvency control by the association's domiciliary regulator as
23 are the unincorporated members.

24 (d) Not later than the 90th day after the date the
25 association's financial statements are due to be filed with the
26 association's domiciliary regulator, the association shall provide
27 to the commissioner:

1 (1) an annual certification by the association's
2 domiciliary regulator of the solvency of each underwriter member;
3 or

4 (2) if a certification described by Subdivision (1) is
5 unavailable, financial statements, prepared by independent public
6 accountants, of each underwriter member of the association.

7 Sec. 492.1035. QUALIFIED JURISDICTIONS. (a) The
8 commissioner shall develop and publish a list of qualified
9 jurisdictions in which an assuming insurer may be licensed and
10 domiciled in order to be considered for certification by the
11 commissioner under Section 492.1033 as a certified reinsurer. In
12 developing the list, the commissioner shall consider the list of
13 qualified jurisdictions published through the National Association
14 of Insurance Commissioners committee process.

15 (b) In order to determine whether a jurisdiction of an
16 assuming insurer located outside of the United States is eligible
17 to be recognized as a qualified jurisdiction under Subsection (a),
18 the commissioner shall evaluate the appropriateness and
19 effectiveness of the reinsurance supervisory system of the
20 jurisdiction, both initially and on an ongoing basis, and consider
21 the rights, benefits, and extent of reciprocal recognition afforded
22 by the jurisdiction to reinsurers licensed and domiciled in the
23 United States.

24 (c) In order to be qualified a jurisdiction must agree to
25 share information and cooperate with the commissioner with respect
26 to all certified reinsurers doing business in the jurisdiction.

27 (d) A jurisdiction may not be recognized as a qualified

1 jurisdiction if the commissioner has determined that the
2 jurisdiction does not adequately and promptly enforce final United
3 States judgments and arbitration awards. Additional factors may be
4 considered in the discretion of the commissioner.

5 (e) If the commissioner approves under this section a
6 jurisdiction as qualified that does not appear on the list of
7 qualified jurisdictions published through the National Association
8 of Insurance Commissioners committee process, the commissioner
9 shall provide documentation in accordance with rules adopted by the
10 commissioner. The rules must include a requirement for a
11 thoroughly documented justification of the approval.

12 (f) The commissioner shall include as a qualified
13 jurisdiction under this section a United States jurisdiction that
14 meets the requirement for accreditation under the National
15 Association of Insurance Commissioners financial standards and
16 accreditation program.

17 (g) If a certified reinsurer's domiciliary jurisdiction
18 ceases to be a qualified jurisdiction, the commissioner may suspend
19 the reinsurer's certification indefinitely, instead of revoking
20 the certification.

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

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

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

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

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

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

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

27 (f) The minimum trustee surplus requirements provided in

1 Subchapter D do not apply to a multibeneficiary trust described by
2 this section, except that the trust shall maintain a minimum
3 trusted surplus of \$10,000,000.

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

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

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

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

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

25 (1) the commissioner may defer to the accredited
26 jurisdiction's certification and the financial strength rating
27 assigned by that jurisdiction; and

1 (2) the applicant shall be considered to be a
2 certified reinsurer in this state.

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

12 (b) If an accredited or certified reinsurer ceases to meet
13 the requirements for accreditation or certification, the
14 commissioner may, after notice and opportunity for hearing, suspend
15 or revoke the reinsurer's accreditation or certification. A
16 suspension or revocation may not take effect until after the date of
17 the commissioner's order on the hearing, unless:

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

19 (2) the commissioner's order is based on regulatory
20 action by the reinsurer's domiciliary jurisdiction or the voluntary
21 surrender or termination of the reinsurer's eligibility to transact
22 insurance or reinsurance business in its domiciliary jurisdiction
23 or in the primary certifying state of the reinsurer under this
24 section; or

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

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

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

11 Sec. 492.1039. CONCENTRATION RISK. (a) A ceding insurer
12 shall manage its reinsurance recoverable proportionate to its book
13 of business. A domestic ceding insurer shall notify the
14 commissioner not later than the 30th day after the date reinsurance
15 recoverable from any single assuming insurer, or group of
16 affiliated assuming insurers, exceeds or is likely to exceed 50
17 percent of the domestic ceding insurer's last reported surplus to
18 policyholders. The notification shall demonstrate that the
19 exposure is safely managed by the domestic ceding insurer.

20 (b) A ceding insurer shall diversify its reinsurance
21 program. A domestic ceding insurer shall notify the commissioner
22 not later than the 30th day after the date the insurer cedes to any
23 single assuming insurer, or group of affiliated assuming insurers,
24 an amount that exceeds or is likely to exceed 20 percent of the
25 ceding insurer's gross written premium in the prior calendar year.
26 The notification shall demonstrate that the exposure is safely
27 managed by the domestic ceding insurer.

1 SECTION 3. Section 492.151, Insurance Code, is amended to
2 read as follows:

3 Sec. 492.151. APPLICABILITY OF SUBCHAPTER. This subchapter
4 applies to:

5 (1) a trust that is used to qualify for a reinsurance
6 credit under Section 492.102(a)(3) and as described by Sections
7 492.1036(e) and (f); and

8 (2) [~~to~~] the assuming insurer that maintains the trust
9 fund.

10 SECTION 4. Section 492.152, Insurance Code, is amended by
11 amending Subsection (a) and adding Subsection (a-1) to read as
12 follows:

13 (a) If the assuming insurer is a single insurer, the trust
14 must:

15 (1) consist of a trustee account representing the
16 assuming insurer's liabilities attributable to business written in
17 the United States; and

18 (2) include a trustee surplus of at least \$20
19 million, except after the assuming insurer has permanently
20 discontinued underwriting new business secured by the trust for not
21 less than three calendar years, the commissioner with principal
22 regulatory oversight of the trust may authorize a reduction in the
23 required trustee surplus, but only after a finding, based on an
24 assessment of the risk, that the new required surplus level is
25 adequate for the protection of United States ceding insurers,
26 policyholders, and claimants in light of reasonably foreseeable
27 adverse loss development.

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

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

13 (b) To enable the commissioner to determine the sufficiency
14 of the trust fund under Section 492.102(a)(3) and for purposes of
15 Sections 492.1036(e) and (f), the assuming insurer shall report to
16 the department not later than March 1 of each year information
17 substantially the same as the information required to be reported
18 by an authorized insurer on the National Association of Insurance
19 Commissioners' Annual Statement form.

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

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

27 (1) that, if the assuming insurer fails to perform the

1 assuming insurer's obligations under the reinsurance contract, the
2 assuming insurer, at the request of the ceding insurer, will:

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

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

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

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

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

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

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

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

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

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

27 (B) the policyholders' and ceding insurers'

1 assigns and successors in interest; or

2 (4) is determined by the commissioner to meet the
3 requirements of Sections 493.1033-493.1038, as applicable.

4 SECTION 8. Subchapter C, Chapter 493, Insurance Code, is
5 amended by adding Sections 493.1033, 493.1034, 493.1035, 493.1036,
6 493.1037, 493.1038, and 493.1039 to read as follows:

7 Sec. 493.1033. CREDIT ALLOWED FOR CERTAIN CERTIFIED
8 REINSURERS. (a) Credit shall be allowed when the reinsurance is
9 ceded to an assuming insurer that:

10 (1) is certified by the commissioner as a reinsurer in
11 this state; and

12 (2) secures its obligations in accordance with the
13 requirements of this section and Sections 493.1034-493.1038.

14 (b) To be eligible for certification, the assuming insurer
15 must:

16 (1) be domiciled and licensed to transact insurance or
17 reinsurance in a jurisdiction listed as qualified on the list
18 published by the commissioner under Section 493.1035;

19 (2) maintain minimum capital and surplus in an amount
20 required by the commissioner by rule;

21 (3) maintain a financial strength rating from not
22 fewer than two rating agencies determined to be acceptable in
23 accordance with rules adopted by the commissioner;

24 (4) agree to submit to the jurisdiction of any court of
25 competent jurisdiction in any state of the United States;

26 (5) appoint the commissioner as its agent for service
27 of process in this state;

1 (6) provide security for 100 percent of the assuming
2 insurer's liabilities for reinsurance ceded by United States ceding
3 insurers if the assuming insurer resists enforcement of a final
4 judgment of a court of the United States;

5 (7) meet application information filing requirements
6 as established by the commissioner by rule, for the initial
7 application for certification and on an ongoing basis; and

8 (8) satisfy any other requirements for certification
9 required by rule adopted by the commissioner.

10 Sec. 493.1034. CERTAIN ASSOCIATIONS MAY BE CERTIFIED
11 REINSURERS. (a) An association that includes incorporated and
12 individual unincorporated underwriters may be a certified
13 reinsurer under Section 493.1034. To be eligible for certification
14 the association must satisfy the requirements of Section 493.1033
15 and this section.

16 (b) The association must satisfy minimum capital and
17 surplus requirements through the capital and surplus equivalents,
18 net of liabilities, of the association and its members, that must
19 include a joint central fund, in an amount determined by the
20 commissioner to provide adequate protection, that may be applied to
21 any unsatisfied obligation of the association or any of its
22 members.

23 (c) The incorporated members of the association acting as
24 members of the association may not be engaged in any business other
25 than underwriting and are subject to the same level of regulation
26 and solvency control by the association's domiciliary regulator as
27 are the unincorporated members.

1 (d) Not later than the 90th day after the date the
2 association's financial statements are due to be filed with the
3 association's domiciliary regulator, the association shall provide
4 to the commissioner:

5 (1) an annual certification by the association's
6 domiciliary regulator of the solvency of each underwriter member;
7 or

8 (2) if a certification described by Subdivision (1) is
9 unavailable, financial statements, prepared by independent public
10 accountants, of each underwriter member of the association.

11 Sec. 493.1035. QUALIFIED JURISDICTIONS. (a) The
12 commissioner shall develop and publish a list of qualified
13 jurisdictions in which an assuming insurer may be licensed and
14 domiciled in order to be considered for certification by the
15 commissioner under Section 493.1033 as a certified reinsurer. In
16 developing the list, the commissioner shall consider the list of
17 qualified jurisdictions published through the National Association
18 of Insurance Commissioners committee process.

19 (b) In order to determine whether a jurisdiction of an
20 assuming insurer located outside of the United States is eligible
21 to be recognized as a qualified jurisdiction under Subsection (a),
22 the commissioner shall evaluate the appropriateness and
23 effectiveness of the reinsurance supervisory system of the
24 jurisdiction, both initially and on an ongoing basis, and consider
25 the rights, benefits, and extent of reciprocal recognition afforded
26 by the jurisdiction to reinsurers licensed and domiciled in the
27 United States.

1 (c) In order to be qualified a jurisdiction must agree to
2 share information and cooperate with the commissioner with respect
3 to all certified reinsurers doing business in the jurisdiction.

4 (d) A jurisdiction may not be recognized as a qualified
5 jurisdiction if the commissioner has determined that the
6 jurisdiction does not adequately and promptly enforce final United
7 States judgments and arbitration awards. Additional factors may be
8 considered in the discretion of the commissioner.

9 (e) If the commissioner approves under this section a
10 jurisdiction as qualified that does not appear on the list of
11 qualified jurisdictions published through the National Association
12 of Insurance Commissioners committee process, the commissioner
13 shall provide documentation in accordance with rules adopted by the
14 commissioner. The rules must include a requirement for a
15 thoroughly documented justification of the approval.

16 (f) The commissioner shall include as a qualified
17 jurisdiction under this section a United States jurisdiction that
18 meets the requirement for accreditation under the National
19 Association of Insurance Commissioners financial standards and
20 accreditation program.

21 (g) If a certified reinsurer's domiciliary jurisdiction
22 ceases to be a qualified jurisdiction, the commissioner may suspend
23 the reinsurer's certification indefinitely, instead of revoking
24 the certification.

25 Sec. 493.1036. FINANCIAL REQUIREMENTS FOR CERTIFIED
26 REINSURER. (a) The commissioner shall assign a financial strength
27 rating to each certified reinsurer after considering the financial

1 strength ratings that have been assigned by rating agencies
2 recognized by the commissioner.

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

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

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

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

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

16 (e) If a certified reinsurer maintains a trust under
17 Subchapter D to secure its obligations, and chooses to secure its
18 obligations incurred as a certified reinsurer with a
19 multibeneficiary trust, the certified reinsurer shall maintain
20 separate trust accounts for the obligations incurred under
21 reinsurance agreements the certified reinsurer issued or renewed
22 with reduced security as permitted by this section or comparable
23 laws of other United States jurisdictions and for its obligations
24 subject to Subchapter D. It is a condition to the grant of
25 certification under this section that the certified reinsurer has
26 bound itself, by the language of the trust agreement and agreement
27 with the commissioner with principal regulatory oversight of each

1 trust account, to fund, on termination of the trust account, out the
2 remaining surplus of the trust any deficiency of any other trust
3 account described by this subsection.

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

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

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

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

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

25 Sec. 493.1037. CERTIFICATION BY NATIONAL ASSOCIATION OF
26 INSURANCE COMMISSIONERS. If an applicant for certification has
27 been certified as a reinsurer in a National Association of

1 Insurance Commissioners accredited jurisdiction:

2 (1) the commissioner may defer to the accredited
3 jurisdiction's certification and the financial strength rating
4 assigned by that jurisdiction; and

5 (2) the applicant shall be considered to be a
6 certified reinsurer in this state.

7 Sec. 493.1038. SUSPENSION OR REVOCATION OF CERTIFICATION;
8 INACTIVE STATUS. (a) A certified reinsurer that ceases to assume
9 new business in this state may request to maintain its
10 certification in inactive status to continue to qualify for a
11 reduction in security for in-force business. An inactive certified
12 reinsurer shall continue to comply with all applicable requirements
13 of this section, and the commissioner shall assign a financial
14 strength rating that takes into account, if relevant, the reasons
15 the reinsurer is not assuming new business.

16 (b) If an accredited or certified reinsurer ceases to meet
17 the requirements for accreditation or certification, the
18 commissioner may, after notice and opportunity for hearing, suspend
19 or revoke the reinsurer's accreditation or certification. A
20 suspension or revocation may not take effect until after the date of
21 the commissioner's order on the hearing, unless:

22 (1) the reinsurer waives its right to hearing;

23 (2) the commissioner's order is based on regulatory
24 action by the reinsurer's domiciliary jurisdiction or the voluntary
25 surrender or termination of the reinsurer's eligibility to transact
26 insurance or reinsurance business in its domiciliary jurisdiction
27 or in the primary certifying state of the reinsurer under this

1 section; or

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

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

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

15 Sec. 493.1039. CONCENTRATION RISK. (a) A ceding insurer
16 shall manage its reinsurance recoverable proportionate to its book
17 of business. A domestic ceding insurer shall notify the
18 commissioner not later than the 30th day after the date reinsurance
19 recoverable from any single assuming insurer, or group of
20 affiliated assuming insurers, exceeds or is likely to exceed 50
21 percent of the domestic ceding insurer's last reported surplus to
22 policyholders. The notification shall demonstrate that the
23 exposure is safely managed by the domestic ceding insurer.

24 (b) A ceding insurer shall diversify its reinsurance
25 program. A domestic ceding insurer shall notify the commissioner
26 not later than the 30th day after the date the insurer cedes to any
27 single assuming insurer, or group of affiliated assuming insurers,

1 an amount that exceeds or is likely to exceed 20 percent of the
2 ceding insurer's gross written premium in the prior calendar year.
3 The notification shall demonstrate that the exposure is safely
4 managed by the domestic ceding insurer.

5 SECTION 9. Section 493.151, Insurance Code, is amended to
6 read as follows:

7 Sec. 493.151. APPLICABILITY OF SUBCHAPTER. This subchapter
8 applies to:

9 (1) a trust that is used to qualify for a reinsurance
10 credit under Section 493.102(a)(3) and as described by Sections
11 493.1036(e) and (f); and

12 (2) [~~to~~] the assuming insurer that maintains the trust
13 fund.

14 SECTION 10. Section 493.152, Insurance Code, is amended by
15 amending Subsection (a) and adding Subsection (a-1) to read as
16 follows:

17 (a) If the assuming insurer is a single insurer, the trust
18 must:

19 (1) consist of a trusteed account representing the
20 assuming insurer's liabilities attributable to business written in
21 the United States; and

22 (2) include a trusteed surplus of at least \$20
23 million, except after the assuming insurer has permanently
24 discontinued underwriting new business secured by the trust for not
25 less than three calendar years, the commissioner with principal
26 regulatory oversight of the trust may authorize a reduction in the
27 required trusteed surplus, but only after a finding, based on an

1 assessment of the risk, that the new required surplus level is
2 adequate for the protection of United States ceding insurers,
3 policyholders, and claimants in light of reasonably foreseeable
4 adverse loss development.

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

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

17 (b) To enable the commissioner to determine the sufficiency
18 of the trust fund under Section 493.102(a)(3) and for purposes of
19 Sections 493.1036(e) and (f), the assuming insurer shall report to
20 the department not later than March 1 of each year information
21 substantially the same as the information required to be reported
22 by an authorized insurer on the National Association of Insurance
23 Commissioners' Annual Statement form.

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

26 (a) A ceding insurer may not be allowed credit under Section
27 493.102(a)(3) for reinsurance ceded to an assuming insurer that is

1 not authorized, [~~or~~] accredited, or certified to engage in the
2 business of insurance or reinsurance in this state unless the
3 assuming insurer agrees in the reinsurance contract:

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

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

9 (B) comply with all requirements necessary to
10 give the court jurisdiction; and

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

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

16 SECTION 13. This Act applies only to a reinsurance contract
17 that is entered into or renewed on or after January 1, 2014. A
18 reinsurance contract that is entered into or renewed before January
19 1, 2014, is governed by the law as it existed immediately before the
20 effective date of this Act, and that law is continued in effect for
21 that purpose.

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