

By: Hancock

S.B. No. 1070

A BILL TO BE ENTITLED

AN ACT

relating to authorized reinsurance and financial statement credit and accounting for reinsurance.

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

ARTICLE 1. AUTHORIZED REINSURANCE; CREDIT AND ACCOUNTING FOR REINSURANCE

SECTION 1.01. The chapter heading to Chapter 493, Insurance Code, is amended to read as follows:

CHAPTER 493. AUTHORIZED REINSURANCE; CREDIT AND ACCOUNTING [~~FOR PROPERTY AND CASUALTY INSURERS~~]

SECTION 1.02. Section 493.002(a), Insurance Code, is amended to read as follows:

(a) This [~~Except as provided by Subsection (b), this~~] chapter applies to all insurers, including:

- (1) a stock or mutual property and casualty insurance company;
- (2) a Mexican casualty insurance company;
- (3) a Lloyd's plan;
- (4) a reciprocal or interinsurance exchange;
- (5) a nonprofit legal service corporation;
- (6) a county mutual insurance company;
- (7) a farm mutual insurance company;
- (8) a risk retention group; [~~and~~]
- (9) any insurer writing a line of insurance regulated

1 by Title 10;

2 (10) all life, health, and accident insurance
3 companies regulated by the department, including:

4 (A) a stock or mutual life, health, or accident
5 insurance company;

6 (B) a fraternal benefit society; and

7 (C) a nonprofit hospital, medical, or dental
8 service corporation, including a group hospital service
9 corporation operating under Chapter 842; and

10 (11) a health maintenance organization operating
11 under Chapter 843.

12 SECTION 1.03. Section 493.051(b), Insurance Code, is
13 amended to read as follows:

14 (b) An insurer authorized to engage in business in this
15 state [~~that writes any line of insurance regulated by Title 10~~] may
16 provide reinsurance under this chapter on any line of insurance in
17 which the insurer is authorized to engage in this state [~~while the~~
18 ~~insurer is in compliance with law~~].

19 SECTION 1.04. Section 493.102(a), Insurance Code, is
20 amended to read as follows:

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

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

26 (2) is accredited as a reinsurer in this state, as
27 provided by Section 493.103; [~~or~~]

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

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

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

9 (4) is certified as a reinsurer in this state under
10 Section 493.1033 and maintains an amount of security based on the
11 rating assigned by the commissioner and based on the requirements
12 under Section 493.1036.

13 SECTION 1.05. Subchapter C, Chapter 493, Insurance Code, is
14 amended by adding Sections 493.1033, 493.1034, 493.1035, 493.1036,
15 493.1037, 493.1038, and 493.1039 to read as follows:

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

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

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

23 (b) To be eligible for certification, the assuming insurer
24 must:

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

1 (2) maintain minimum capital and surplus in an amount
2 not less than \$500 million;

3 (3) maintain a financial strength rating in accordance
4 with Section 493.1036;

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

7 (5) appoint the commissioner as its agent for service
8 of process in this state; and

9 (6) provide security for 100 percent of the assuming
10 insurer's liabilities for reinsurance ceded by United States ceding
11 insurers if the assuming insurer resists enforcement of a final
12 judgment of a court of the United States.

13 (c) Credit for reinsurance under this section applies only
14 to a reinsurance contract entered into or renewed on or after the
15 effective date of the certification of the assuming insurer.

16 Sec. 493.1034. CERTAIN ASSOCIATIONS MAY BE CERTIFIED
17 REINSURERS. (a) An association that includes incorporated and
18 individual unincorporated underwriters may be a certified
19 reinsurer under Section 493.1033. To be eligible for certification
20 the association must satisfy the requirements of Section 493.1033
21 and this section.

22 (b) The association must satisfy minimum capital and
23 surplus requirements through the capital and surplus equivalents,
24 net of liabilities, of the association and its members that must
25 include a joint central fund in an amount determined by the
26 commissioner to provide adequate protection that may be applied to
27 any unsatisfied obligation of the association or any of its

1 members.

2 (c) The incorporated members of the association may not be
3 engaged in any business other than underwriting and are subject to
4 the same level of regulation and solvency control by the
5 association's domiciliary regulator as are the unincorporated
6 members.

7 (d) Not later than the 90th day after the date the
8 association's financial statements are due to be filed with the
9 association's domiciliary regulator, the association shall provide
10 to the commissioner:

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

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

17 Sec. 493.1035. QUALIFIED JURISDICTIONS. (a) The
18 commissioner shall develop and publish a list of qualified
19 jurisdictions in one of which an assuming insurer must be licensed
20 and domiciled in order to be considered for certification by the
21 commissioner under Section 493.1033 as a certified reinsurer. In
22 developing the list, the commissioner shall consider the following
23 factors:

24 (1) the framework under which the assuming insurer is
25 regulated;

26 (2) the structure and authority of the domiciliary
27 regulator with regard to solvency regulation requirements and

1 financial surveillance;

2 (3) the substance of financial and operating standards
3 for assuming insurers in the domiciliary jurisdiction;

4 (4) the form and substance of financial reports
5 required to be filed or made publicly available by reinsurers in the
6 domiciliary jurisdiction and the accounting principles used in
7 those reports;

8 (5) the willingness of the domiciliary regulator to
9 cooperate with other regulators in the United States and, in
10 particular, the commissioner;

11 (6) the history of performance by assuming insurers in
12 the domiciliary jurisdiction;

13 (7) evidence of problems with the enforcement of final
14 United States judgments in the domiciliary jurisdiction; and

15 (8) any other information that shows that
16 qualification of the jurisdiction would be beneficial or harmful to
17 insurers or consumers in this state.

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

27 (c) In order to be qualified a jurisdiction must agree in

1 writing to share information and cooperate with the commissioner
2 with respect to all certified reinsurers doing business in the
3 jurisdiction.

4 (d) A jurisdiction may not be recognized as a qualified
5 jurisdiction if the commissioner determines that the jurisdiction
6 does not or may not adequately and promptly enforce final United
7 States judgments or arbitration awards.

8 (e) If a certified reinsurer's domiciliary jurisdiction
9 ceases to be a qualified jurisdiction, the commissioner may suspend
10 the reinsurer's certification indefinitely, instead of revoking
11 the certification.

12 Sec. 493.1036. REQUIREMENTS FOR CERTIFIED REINSURER.

13 (a) The commissioner shall assign a rating to each certified
14 reinsurer based on the factors listed in Subsections (d)-(h).

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

17 (c) A certified reinsurer shall secure obligations assumed
18 from ceding insurers domiciled in the United States in accordance
19 with the rating assigned by the commissioner under Subsection (a)
20 and with the amount of required security computed as a percentage of
21 those obligations according to the following chart:

<u>Rating</u>	<u>Security Required</u>
<u>Secure - 1</u>	<u>0%</u>
<u>Secure - 2</u>	<u>10%</u>
<u>Secure - 3</u>	<u>20%</u>
<u>Secure - 4</u>	<u>50%</u>
<u>Secure - 5</u>	<u>75%</u>

Vulnerable - 6 100%

(d) A certified reinsurer must maintain financial strength ratings from at least two of the rating agencies listed in Subsection (e). The ratings must be based on interactive communication between the rating agency and the certified reinsurer, and may not be based solely on publicly available information. The financial strength ratings are one factor in determining the rating the commissioner assigns to the certified reinsurer.

(e) The following rating agencies are acceptable for purposes of Subsection (d):

- (1) Standard & Poor's Financial Services LLC;
- (2) Moody's Investors Service, Inc.;
- (3) Fitch Ratings Ltd.;
- (4) A.M. Best Company, Inc.; or
- (5) another nationally recognized statistical rating organization.

(f) A certified reinsurer must be rated on a legal entity basis, giving due consideration to the group rating when appropriate, except that an association that includes incorporated and individual unincorporated underwriters that has been approved to do business as a single certified reinsurer may be evaluated on the basis of the association's group rating. The commissioner may consider the following factors as part of the initial and ongoing evaluation process in assigning a rating:

- (1) a certified reinsurer's financial strength rating from an acceptable rating agency as described by Subsection (e);

1 (2) the business practices of the certified reinsurer
2 in dealing with ceding insurers, including the certified
3 reinsurer's record of compliance with reinsurance contractual
4 terms and obligations;

5 (3) for a certified reinsurer domiciled in the United
6 States, a review of the most recent applicable annual statement
7 blanks:

8 (A) Schedule F for property and casualty
9 reinsurers; or

10 (B) Schedule S for life and health reinsurers;

11 (4) the market conduct and prompt payment of claims
12 history of the certified reinsurer under reinsurance agreements,
13 including the proportion of obligations that are more than 90 days
14 past due or in dispute;

15 (5) regulatory actions against the certified
16 reinsurer;

17 (6) the report of the independent auditor on the
18 financial statements of the insurance enterprise, on a basis
19 described in Subdivision (7);

20 (7) for a certified reinsurer not domiciled in the
21 United States, three years of audited financial statements filed
22 with the domiciliary regulator on one of the following accounting
23 bases:

24 (A) audited United States generally accepted
25 accounting principles (GAAP) basis, if available;

26 (B) audited International Financial Reporting
27 Standards (IFRS) basis, which must include an audited footnote

1 reconciling equity and net income to a United States generally
 2 accepted accounting principles (GAAP) basis; or

3 (C) with the permission of the commissioner,
 4 audited International Financial Reporting Standards (IFRS)
 5 statements with reconciliation to United States generally accepted
 6 accounting principles (GAAP) certified by an officer of the
 7 certified reinsurer;

8 (8) actuarial opinion, as filed with the certified
 9 reinsurer's domiciliary regulator;

10 (9) the liquidation priority of obligations to a
 11 ceding insurer in the certified reinsurer's domiciliary
 12 jurisdiction in the context of an insolvency proceeding; and

13 (10) a certified reinsurer's participation in a
 14 liquidation, reorganization, or similar solvency-related
 15 arrangement or proceeding, regardless of the characterization of
 16 the arrangement or proceeding, that involves United States ceding
 17 insurers.

18 (g) The maximum rating that the commissioner may assign a
 19 certified reinsurer must correspond with the certified reinsurer's
 20 financial strength rating based on the following table:

<u>Rating</u>	<u>Best</u>	<u>S&P</u>	<u>Moody's</u>	<u>Fitch</u>
<u>Secure - 1</u>	<u>A++</u>	<u>AAA</u>	<u>Aaa</u>	<u>AAA</u>
<u>Secure - 2</u>	<u>A+</u>	<u>A++, AA,</u>	<u>Aa1, Aa2,</u>	<u>AA+, AA,</u>
		<u>AA-</u>	<u>Aa3</u>	<u>AA-</u>
<u>Secure - 3</u>	<u>A</u>	<u>A+, A</u>	<u>A1, A2</u>	<u>A+, A</u>
<u>Secure - 4</u>	<u>A-</u>	<u>A-</u>	<u>A3</u>	<u>A-</u>

1	<u>Secure - 5</u>	<u>B++, B+</u>	<u>BBB+, BBB,</u>	<u>Baa1, Baa2,</u>	<u>BBB+, BBB,</u>
2			<u>BBB-</u>	<u>Baa3</u>	<u>BBB-</u>
3	<u>Vulnerable - 6</u>	<u>B, B-, C++,</u>	<u>BB+, BB,</u>	<u>Ba1, Ba2,</u>	<u>BB+, BB,</u>
4		<u>C+, C, C-,</u>	<u>BB-, B+, B,</u>	<u>Ba3, B1,</u>	<u>BB-, B+, B,</u>
5		<u>D, E, F</u>	<u>B-, CCC,</u>	<u>B2, B3,</u>	<u>B-, CCC+,</u>
6			<u>CC, C, D, R</u>	<u>Caa, Ca, C</u>	<u>CC, CCC-,</u>
7					<u>DD</u>

8 (h) The commissioner shall use the lowest financial
9 strength rating a certified reinsurer receives from an approved
10 rating agency to establish the maximum rating that may be assigned
11 to the certified reinsurer. A reinsurer that fails to obtain or
12 maintain at least two financial strength ratings from acceptable
13 rating agencies is not eligible for certification.

14 (i) A certified reinsurer shall annually file information
15 with the commissioner for the commissioner's evaluation of the
16 certified reinsurer's compliance with the standards under this
17 section.

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

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

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

25 (k) If a certified reinsurer maintains a trust under
26 Subchapter D to secure its obligations, and chooses to secure its
27 obligations incurred as a certified reinsurer with a

1 multibeneficiary trust, the certified reinsurer shall maintain
2 separate trust accounts for the obligations incurred under
3 reinsurance agreements the certified reinsurer issued or renewed
4 with reduced security as permitted by this section or comparable
5 laws of other United States jurisdictions and for its obligations
6 subject to Subchapter D. It is a condition to the grant of
7 certification under Section 493.1033 that the certified reinsurer
8 has bound itself, by the language of the trust agreement and
9 agreement with the insurance commissioner or other chief insurance
10 regulatory official with principal regulatory oversight over each
11 trust account, to fund, on termination of the trust account, out of
12 the remaining surplus of the trust any deficiency of any other trust
13 account described by this subsection.

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

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

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

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

26 (n) For purposes of this section, a reinsurer whose
27 certification has been revoked, suspended, or voluntarily

1 surrendered or whose certification status has become inactive for
2 any reason shall be treated as a reinsurer required to secure 100
3 percent of its obligations, except that if the commissioner
4 continues to assign to the reinsurer a higher financial strength
5 rating as permitted by this section, the security requirement does
6 not apply to a reinsurer whose certification has been suspended or
7 whose certification status has become inactive.

8 Sec. 493.1037. CERTIFICATION BY OTHER STATES. If an
9 applicant for certification has been certified as a reinsurer in
10 another state by the commissioner of insurance of that state:

11 (1) the commissioner may make a determination to use
12 the other state's certification and the financial strength rating
13 assigned by that state; and

14 (2) if the commissioner makes the determination
15 authorized by Subdivision (1), the applicant shall be considered to
16 be a certified reinsurer in this state.

17 Sec. 493.1038. SUSPENSION OR REVOCATION OF ACCREDITATION OR
18 CERTIFICATION; INACTIVE STATUS. (a) A certified reinsurer that
19 ceases to assume new business in this state may request to maintain
20 its certification in inactive status to continue to qualify for a
21 reduction in security for in-force business. An inactive certified
22 reinsurer shall continue to comply with all applicable requirements
23 of this section, and the commissioner shall assign a financial
24 strength rating that takes into account, if relevant, the reasons
25 the reinsurer is not assuming new business.

26 (b) If an accredited or certified reinsurer ceases to meet
27 the requirements for accreditation or certification, the

1 commissioner may, after notice and opportunity for hearing, suspend
2 or revoke the reinsurer's accreditation or certification. A
3 suspension or revocation may not take effect until after the date of
4 the commissioner's order on the hearing, unless:

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

6 (2) the commissioner's order is based on regulatory
7 action by the reinsurer's domiciliary jurisdiction or the voluntary
8 surrender or termination of the reinsurer's eligibility to transact
9 insurance or reinsurance business in its domiciliary jurisdiction
10 or in the primary certifying state of the reinsurer under this
11 section; or

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

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

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

25 Sec. 493.1039. CONCENTRATION RISK. (a) A ceding insurer
26 shall manage its reinsurance recoverable proportionate to its book
27 of business. A domestic ceding insurer shall notify the

1 commissioner not later than the 30th day after the date reinsurance
2 recoverable from any single assuming insurer, or group of
3 affiliated assuming insurers, exceeds or is likely to exceed 50
4 percent of the domestic ceding insurer's last reported surplus to
5 policyholders. The notification shall demonstrate that the
6 exposure is safely managed by the domestic ceding insurer.

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

15 SECTION 1.06. Section 493.151, Insurance Code, is amended
16 to read as follows:

17 Sec. 493.151. APPLICABILITY OF SUBCHAPTER. This subchapter
18 applies to:

19 (1) a trust that is used to qualify for a reinsurance
20 credit under Section 493.102(a)(3) and as described by Sections
21 493.1036(k) and (l); and

22 (2) ~~to~~ the assuming insurer that maintains the trust
23 fund.

24 SECTION 1.07. Section 493.152, Insurance Code, is amended
25 by amending Subsection (a) and adding Subsection (a-1) to read as
26 follows:

27 (a) If the assuming insurer is a single insurer, the trust

1 must:

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

5 (2) include a trusteed surplus of at least \$20
6 million, except after the assuming insurer has permanently
7 discontinued underwriting new business secured by the trust for not
8 less than three calendar years, the insurance commissioner or other
9 chief insurance regulatory official with principal regulatory
10 oversight over the trust may authorize a reduction in the required
11 trusteed surplus, but only after a finding, based on an assessment
12 of the risk, that the new required surplus level is adequate for the
13 protection of United States ceding insurers, policyholders, and
14 claimants in light of reasonably foreseeable adverse loss
15 development.

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

26 SECTION 1.08. Section [493.153](#), Insurance Code, is amended
27 to read as follows:

1 Sec. 493.153. FORM OF TRUST. (a) The trust must be
2 established in a form approved by the commissioner or an insurance
3 commissioner or other chief insurance regulatory official of
4 another state who, under the trust instrument, has principal
5 regulatory oversight over the trust.

6 (b) A copy of the trust instrument and any amendment to the
7 trust instrument must be filed with the insurance commissioner or
8 other chief insurance regulatory official of each state in which
9 the ceding insurer beneficiaries of the trust are domiciled.

10 SECTION 1.09. Section 493.155, Insurance Code, is amended
11 by amending Subsection (b) and adding Subsections (c), (d), (e),
12 and (f) to read as follows:

13 (b) To enable the commissioner to determine the sufficiency
14 of the trust fund under Section 493.102(a)(3) and for purposes of
15 Sections 493.1036(k) and (l), 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 (c) Not later than February 28 of each year, if requested by
21 a beneficiary of the trust fund, an assuming insurer that maintains
22 a trust fund shall provide or make available to the assuming
23 insurer's United States ceding insurers or those ceding insurers'
24 assigns and successors in interest the following information:

25 (1) a copy of the trust instrument and any amendments
26 to the trust instrument relating to the trust fund;

27 (2) a copy of the assuming insurer's annual and

1 quarterly financial information, and the insurer's most recent
2 audited financial statement provided to the commissioner,
3 including any exhibits and schedules;

4 (3) any financial information provided to the
5 department or commissioner by the assuming insurer, including any
6 exhibits and schedules;

7 (4) a copy of any annual and quarterly financial
8 information provided to the department or commissioner by the
9 trustee of the trust fund maintained by the assuming insurer,
10 including any exhibits and schedules; and

11 (5) a copy of the information required to be reported
12 by the trustee under Subsection (a).

13 (d) If requested by a ceding insurer, the assuming insurer
14 shall provide, in addition to the information under Subsection (c),
15 a certification that:

16 (1) discloses the financial information provided to
17 the commissioner relating to reinsurance liabilities attributable
18 to the ceding insurer; and

19 (2) certifies that the amount of security held in
20 trust on behalf of the ceding insurer is at least equal to those
21 amounts as reflected in the report to the commissioner under
22 Subsection (a).

23 (e) The assuming insurer shall also provide, if requested by
24 the ceding insurer, a certification that the trust, in aggregate:

25 (1) consists of sufficient assets to support the
26 assuming insurer's trust obligations under applicable state laws
27 and regulations; and

1 (2) includes the required amount of trusteed surplus.

2 (f) An assuming insurer may decline to release trade secrets
3 or commercially sensitive information to a ceding insurer.

4 SECTION 1.10. Section 493.156(a), Insurance Code, is
5 amended to read as follows:

6 (a) A ceding insurer may not be allowed credit under Section
7 493.102(a)(3) for reinsurance ceded to an assuming insurer that is
8 not authorized, ~~[or]~~ accredited, or certified to engage in the
9 business of insurance or reinsurance in this state unless the
10 assuming insurer agrees in the reinsurance contract:

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

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

16 (B) comply with all requirements necessary to
17 give the court jurisdiction; and

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

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

23 SECTION 1.11. Subchapter D, Chapter 493, Insurance Code, is
24 amended by adding Section 493.1561 to read as follows:

25 Sec. 493.1561. CERTAIN TRUSTEED ASSUMING REINSURERS;
26 REQUIREMENTS FOR TRUST AGREEMENT. (a) In this section,
27 "commissioner" means the insurance commissioner or other chief

1 insurance regulatory official with principal regulatory oversight
2 over the trust.

3 (b) If the assuming insurer does not meet the requirements
4 of Section 493.102(a)(1) or (2), the credit permitted by Section
5 493.102(a)(3) or (4) may not be allowed unless the assuming insurer
6 agrees in the trust agreement that:

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

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

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

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

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

24 (4) if the commissioner determines that all or part of
25 the trust assets are unnecessary to satisfy the claims of the
26 grantor's ceding insurers domiciled in the United States, the
27 commissioner shall return those unnecessary assets to the trustee

1 for distribution in accordance with the trust agreement; and

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

4 SECTION 1.12. The following provisions are repealed:

5 (1) Chapter 492, Insurance Code; and

6 (2) Section 493.002(b), Insurance Code.

7 ARTICLE 2. CONFORMING AMENDMENTS

8 SECTION 2.01. Section 36.002, Insurance Code, is amended to
9 read as follows:

10 Sec. 36.002. ADDITIONAL RULEMAKING AUTHORITY. The
11 commissioner may adopt reasonable rules that are:

12 (1) necessary to effect the purposes of a provision
13 of:

14 (A) Subchapter B, Chapter 5;

15 (B) Subchapter C, Chapter 1806;

16 (C) Subchapter A, Chapter 2301;

17 (D) Chapter 251, as that chapter relates to
18 casualty insurance and fidelity, guaranty, and surety bond
19 insurance;

20 (E) Chapter 253;

21 (F) Chapter 2008, 2251, or 2252; or

22 (G) Subtitle B, Title 10; or

23 (2) appropriate to accomplish the purposes of a
24 provision of:

25 (A) Section 37.051(a), 403.002, [~~492.051(b) or~~
26 ~~(c)~~] 501.159, 941.003(b)(1) or (c), or 942.003(b)(1) or (c);

27 (B) Subchapter H, Chapter 544;

- 1 (C) Chapter 251, as that chapter relates to:
- 2 (i) automobile insurance;
- 3 (ii) casualty insurance and fidelity,
- 4 guaranty, and surety bond insurance;
- 5 (iii) fire insurance and allied lines;
- 6 (iv) workers' compensation insurance; or
- 7 (v) aircraft insurance;
- 8 (D) Chapter 5, 252, 253, 254, 255, 256, 426, 493,
- 9 494, 1804, 1805, 1806, 2171, 6001, 6002, or 6003;
- 10 (E) Subtitle B, C, D, E, F, H, or I, Title 10;
- 11 (F) Section 417.008, Government Code; or
- 12 (G) Chapter 2154, Occupations Code.
- 13 SECTION 2.02. Section 422.005(a), Insurance Code, is
- 14 amended to read as follows:
- 15 (a) This chapter does not apply to:
- 16 (1) variable contracts for which separate accounts are
- 17 required to be maintained;
- 18 (2) a reinsurance agreement or any trust account
- 19 related to the reinsurance agreement if the agreement and trust
- 20 account meet the requirements of Chapter [~~492 or~~ 493];
- 21 (3) an assessment-as-needed company or insurance
- 22 coverage written by an assessment-as-needed company;
- 23 (4) an insurer while:
- 24 (A) the insurer is subject to a conservatorship
- 25 order issued by the commissioner; or
- 26 (B) a court-appointed receiver is in charge of
- 27 the insurer's affairs; or

1 (5) an insurer's reserve assets that are held,
2 deposited, pledged, or otherwise encumbered to secure, offset,
3 protect, or meet the insurer's reserve liabilities established in a
4 reinsurance agreement under which the insurer reinsures the
5 insurance policy liabilities of a ceding insurer if:

6 (A) the ceding insurer and the reinsurer are
7 authorized to engage in business in this state; and

8 (B) in accordance with a written agreement
9 between the ceding insurer and the reinsurer, reserve assets
10 substantially equal to the reserve liabilities the reinsurer must
11 establish on the reinsured business are:

12 (i) deposited by or withheld from the
13 reinsurer and held in the custody of the ceding insurer, or
14 deposited and held in a trust account with a state or national bank
15 domiciled in this state, as security for the payment of the
16 reinsurer's obligations under the reinsurance agreement;

17 (ii) held subject to withdrawal by the
18 ceding insurer; and

19 (iii) held under the separate or joint
20 control of the ceding insurer.

21 SECTION 2.03. Section [841.002](#), Insurance Code, is amended
22 to read as follows:

23 Sec. 841.002. APPLICABILITY OF CHAPTER AND OTHER LAW.
24 Except as otherwise expressly provided by this code, each insurance
25 company incorporated or engaging in business in this state as a life
26 insurance company, an accident insurance company, a life and
27 accident insurance company, a health and accident insurance

1 company, or a life, health, and accident insurance company is
2 subject to:

- 3 (1) this chapter;
- 4 (2) Chapter 3;
- 5 (3) Chapters 425 and 493 [~~492~~];
- 6 (4) Title 7;
- 7 (5) Sections 1202.051, 1204.151, 1204.153, and
8 1204.154;
- 9 (6) Subchapter A, Chapter 1202, Subchapters A and F,
10 Chapter 1204, Subchapter A, Chapter 1273, Subchapters A, B, and D,
11 Chapter 1355, and Subchapter A, Chapter 1366;
- 12 (7) Subchapter A, Chapter 1507;
- 13 (8) Chapters 1203, 1210, 1251-1254, 1301, 1351, 1354,
14 1359, 1364, 1368, 1505, [~~1506~~] 1651, 1652, and 1701; and
- 15 (9) Chapter 177, Local Government Code.

16 SECTION 2.04. Section 841.257, Insurance Code, is amended
17 to read as follows:

18 Sec. 841.257. KINDS OF BUSINESS LIMITED. An insurance
19 company authorized to engage in the business of insurance under
20 this chapter or in accordance with Section 982.051 may not accept a
21 risk or write an insurance policy in this state or any other state
22 or country other than:

- 23 (1) a life, accident, or health insurance policy;
- 24 (2) reinsurance under [~~Sections 492.051(b) and (c) or~~]
25 Chapter 493 by a life insurance company authorized to engage in the
26 business of insurance in this state; or
- 27 (3) reinsurance under Chapter 494 by a domestic

1 insurance company.

2 SECTION 2.05. Section 841.402(10), Insurance Code, is
3 amended to read as follows:

4 (10) "Letter of credit" means a clean, unconditional,
5 irrevocable letter of credit issued or confirmed by a qualified
6 United States financial institution, as defined by Section
7 493.104(b)(2)(C) [~~492.104(b)(2)(C)~~].

8 SECTION 2.06. Section 841.409(c), Insurance Code, is
9 amended to read as follows:

10 (c) A limited purpose subsidiary life insurance company
11 organized under this subchapter is considered to be licensed to
12 transact the business of reinsurance for the purposes of Section
13 493.051 [~~492.051~~], but may only reinsure risks of the company's
14 affiliated companies.

15 SECTION 2.07. Section 841.412(b), Insurance Code, is
16 amended to read as follows:

17 (b) Subject to compliance with Subsection (a) and
18 notwithstanding Chapter 425, a limited purpose subsidiary life
19 insurance company may reduce the amount of the company's excess
20 reserves on account of:

- 21 (1) reinsurance that complies with Chapter 493 [~~492~~];
22 (2) a letter of credit that complies with Section
23 493.104(b)(2)(C) [~~492.104(b)(2)(C)~~]; or
24 (3) guaranties from a holding company or an affiliated
25 company as provided by Section 841.417.

26 SECTION 2.08. Sections 841.413(b) and (c), Insurance Code,
27 are amended to read as follows:

1 (b) Unless otherwise approved in advance by the
2 commissioner, a limited purpose subsidiary life insurance company
3 may not assume or retain exposure to reinsurance losses for the
4 company's own account that are not funded by:

5 (1) premium and other amounts payable by the ceding
6 insurer to the limited purpose subsidiary life insurance company
7 under the reinsurance contract, or any return on the investment of
8 the premiums or other amounts;

9 (2) letters of credit that qualify under Section
10 493.104(b)(2)(C) [~~492.104(b)(2)(C)~~]; or

11 (3) guaranties of a holding company or an affiliated
12 company as provided by Section 841.417.

13 (c) A limited purpose subsidiary life insurance company may
14 cede risks assumed under a reinsurance contract to one or more
15 reinsurers through the purchase of reinsurance, subject to the
16 prior approval of the commissioner. The commissioner may approve a
17 reinsurance contract under this subsection if the commissioner
18 finds that:

19 (1) the proposed reinsurance complies with Chapter 493
20 [~~492~~];

21 (2) the proposed reinsurer has sufficient liquidity,
22 admitted assets, and policyholder surplus to support the
23 liabilities assumed under the reinsurance contract; and

24 (3) the proposed reinsurance contract would not result
25 in a hazardous financial condition for the limited purpose
26 subsidiary life insurance company.

27 SECTION 2.09. Section 862.101(f), Insurance Code, is

1 amended to read as follows:

2 (f) Reinsurance that is required or permitted by this
3 section must comply with:

- 4 (1) Subchapter A, Chapter 491; and
- 5 (2) [~~Sections 492.051(b) and (c); and~~
- 6 [~~3~~] Chapter 493.

7 SECTION 2.10. Section 884.002(c), Insurance Code, is
8 amended to read as follows:

9 (c) The following provisions of this code apply to a
10 stipulated premium company:

- 11 (1) Article 21.47;
- 12 (2) Section 38.001;
- 13 (3) Chapter 86;
- 14 (4) Subchapter A, Chapter 401;
- 15 (5) Sections 401.051, 401.052, 401.054-401.062,
- 16 401.151, 401.152, 401.155, and 401.156;
- 17 (6) Sections 403.001, 403.052, and 403.102;
- 18 (7) Subchapter A, Chapter 404;
- 19 (8) Section 421.001;
- 20 (9) Subchapter D, Chapter 425;
- 21 (10) Chapter 443;
- 22 (11) Chapter 493 [~~492~~], other than Section 493.051(b)
23 [~~Sections 492.051(b) and (c)~~];
- 24 (12) Chapter 541;
- 25 (13) Sections 801.001-801.002;
- 26 (14) Sections 801.051-801.055;
- 27 (15) Section 801.057;

- 1 (16) Sections 801.101-801.102;
- 2 (17) Subchapter A, Chapter 821;
- 3 (18) Chapter 824;
- 4 (19) Chapter 828;
- 5 (20) Section 841.251;
- 6 (21) Section 841.259;
- 7 (22) Section 841.261;
- 8 (23) Section 841.703; and
- 9 (24) Chapter 4152.

10 SECTION 2.11. Section 884.402, Insurance Code, is amended
11 to read as follows:

12 Sec. 884.402. ADDITIONAL COVERAGE. A stipulated premium
13 company that, at the time it begins to issue coverages under this
14 subchapter, possesses the amounts of capital and unencumbered
15 surplus equal to or greater than the corresponding amounts required
16 for organization of a life and health company under Sections
17 841.052, 841.054, 841.204, 841.205, 841.301, and 841.302 may,
18 subject to Section 884.403:

19 (1) issue any kind of life insurance coverage
20 authorized by Chapter 3, 841, or 1701 or Title 7;

21 (2) issue any kind of health or accident insurance
22 coverage authorized by:

23 (A) Title 7;

24 (B) Chapter 3, 704, 841, 846, 982, 1201, 1202,
25 1203, 1210, 1251, 1252, 1253, 1254, 1301, 1351, 1354, 1359, 1364,
26 1368, 1501, 1504, 1505, [~~1506~~] 1552, 1575, 1576, 1579, 1581, 1625,
27 1651, 1652, or 1701;

1 (C) Chapter 493 [~~492~~], other than Section
2 493.051(b) [~~Sections 492.051(b) and (c)~~];

3 (D) Subchapter B, Chapter 38, Subchapter D,
4 Chapter 425, Subchapter A or F, Chapter 1204, Subchapter A, Chapter
5 1273, Subchapter A, B, or D, Chapter 1355, Subchapter A, Chapter
6 1366, or Subchapter A, Chapter 1507;

7 (E) Section 1204.151, 1204.153, 1204.154, or
8 1451.051; or

9 (F) Chapter 177, Local Government Code; or

10 (3) issue life insurance coverage through policies
11 without cash surrender values or nonforfeiture values and that
12 exceed \$10,000 on one life.

13 SECTION 2.12. Section 964.052(d), Insurance Code, is
14 amended to read as follows:

15 (d) A captive insurance company may take credit for reserves
16 on risks or portions of risks ceded to reinsurers under [~~Subchapter~~
17 ~~C, Chapter 492, and~~] Subchapter C, Chapter 493.

18 SECTION 2.13. Section 1807.002(a), Insurance Code, is
19 amended to read as follows:

20 (a) The following provisions do not apply to marine
21 insurance:

22 (1) Sections 36.002, 37.051, 403.002, [~~492.051~~] and
23 501.159;

24 (2) Subchapter H, Chapter 544;

25 (3) Chapters 5, 252, 253, 493, 494, 1804, 1805, 1806,
26 and 2171; and

27 (4) Subtitles B, C, D, E, F, H, and I.

1 SECTION 2.14. Section 4152.152, Insurance Code, is amended
2 to read as follows:

3 Sec. 4152.152. PLACEMENT OF REINSURANCE WITH UNAUTHORIZED
4 REINSURER. Unless the ceding insurer releases the broker in
5 writing from the broker's obligations under this section, a broker
6 who places reinsurance on behalf of an authorized ceding insurer
7 with a reinsurer that is not authorized, accredited, or trustee in
8 this state under Chapter [~~492 or~~] 493 shall:

9 (1) exercise due diligence in inquiring into the
10 financial condition of the reinsurer;

11 (2) disclose to the ceding insurer the broker's
12 findings in connection with the inquiry under Subdivision (1); and

13 (3) make available to the ceding insurer a copy of the
14 current financial statement of the reinsurer.

15 SECTION 2.15. Section 4152.214(a), Insurance Code, is
16 amended to read as follows:

17 (a) Unless the ceding insurer releases the manager in
18 writing from the manager's obligations under this section, a
19 manager who places reinsurance on behalf of an authorized ceding
20 insurer with a reinsurer that is not authorized, accredited, or
21 trustee in this state under Chapter [~~492 or~~] 493 shall:

22 (1) exercise due diligence in inquiring into the
23 financial condition of the reinsurer;

24 (2) disclose to the ceding insurer the manager's
25 findings in connection with the inquiry under Subdivision (1); and

26 (3) make available to the ceding insurer a copy of the
27 current financial statement of the reinsurer.

1 ARTICLE 3. TRANSITION; EFFECTIVE DATE

2 SECTION 3.01. The changes in law made by this Act apply only
3 to a reinsurance contract that is entered into or renewed on or
4 after January 1, 2018. A reinsurance contract that is entered into
5 or renewed before January 1, 2018, is governed by the law as it
6 existed immediately before the effective date of this Act, and that
7 law is continued in effect for that purpose.

8 SECTION 3.02. This Act takes effect September 1, 2017.