

By: Hancock  
(Frullo)

S.B. No. 1070

Substitute the following for S.B. No. 1070:

By: Phillips

C.S.S.B. No. 1070

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to authorized reinsurance and financial statement credit  
3 and accounting for reinsurance.

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

5 ARTICLE 1. AUTHORIZED REINSURANCE; CREDIT AND ACCOUNTING FOR  
6 REINSURANCE

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

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

11 SECTION 1.02. Section 493.002, Insurance Code, is amended  
12 by amending Subsection (a) and adding Subsection (a-1) to read as  
13 follows:

14 (a) Except as provided by Subsection (a-1) [~~(b)~~], this  
15 chapter applies to all insurers, including:

16 (1) a stock or mutual property and casualty insurance  
17 company;

18 (2) a Mexican casualty insurance company;

19 (3) a Lloyd's plan;

20 (4) a reciprocal or interinsurance exchange;

21 (5) a nonprofit legal service corporation;

22 (6) a county mutual insurance company;

23 (7) a farm mutual insurance company;

24 (8) a risk retention group; [~~and~~]

1           (9) any insurer writing a line of insurance regulated  
2 by Title 10;

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

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

7                 (B) a fraternal benefit society; and

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

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

13           (a-1) A county mutual insurance company operating under  
14 Section 912.056(d) that does not directly or indirectly write or  
15 assume insurance in any manner in another state may not be allowed  
16 credit under Section 493.1033 for reinsurance ceded to a reinsurer  
17 qualifying under Sections 493.1033 and 493.1034 and is not subject  
18 to Section 493.1039. This subsection does not prohibit a county  
19 mutual insurance company described by this subsection from ceding  
20 reinsurance to reinsurers qualifying under Sections 493.1033 and  
21 493.1034 under other provisions of this chapter.

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

24           (b) An insurer authorized to engage in business in this  
25 state [~~that writes any line of insurance regulated by Title 10~~] may  
26 provide reinsurance under this chapter on any line of insurance in  
27 which the insurer is authorized to engage in this state [~~while the~~

1 ~~insurer is in compliance with law]~~.

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

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

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

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

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

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

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

19 (4) is certified as a reinsurer in this state under  
20 Section 493.1033 and maintains adequate collateral as determined by  
21 the commissioner.

22 SECTION 1.05. Subchapter C, Chapter 493, Insurance Code, is  
23 amended by adding Sections 493.1033, 493.1034, 493.1035, 493.1036,  
24 493.1037, 493.1038, and 493.1039 to read as follows:

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

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

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

5           (b) To be eligible for certification, the assuming insurer  
6 must:

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

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

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

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

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

19           (6) provide security for 100 percent of the assuming  
20 insurer's liabilities for reinsurance ceded by United States ceding  
21 insurers if the assuming insurer resists enforcement of a final  
22 judgment of a court of the United States;

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

26           (8) satisfy any other requirements for certification  
27 required by the commissioner by rule.

1       (c) In determining eligibility for certification under  
2 Subsection (b), the commissioner may defer to the certification  
3 granted and financial strength rating assigned by a National  
4 Association of Insurance Commissioners accredited jurisdiction.

5       (d) Credit for reinsurance under this section applies only  
6 to a reinsurance contract entered into or renewed on or after the  
7 effective date of the certification of the assuming insurer.

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

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

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

26       (d) Not later than the 90th day after the date the  
27 association's financial statements are due to be filed with the

1 association's domiciliary regulator, the association shall provide  
2 to the commissioner:

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

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

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

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

26 (c) In order to be qualified a jurisdiction must agree in  
27 writing to share information and cooperate with the commissioner

1 with respect to all certified reinsurers doing business in the  
2 jurisdiction.

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

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

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

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

24 Sec. 493.1036. REQUIREMENTS FOR CERTIFIED REINSURER. (a)  
25 The commissioner shall assign a rating to each certified reinsurer  
26 after giving due consideration to the financial strength ratings  
27 assigned by rating agencies recognized by the commissioner by rule.

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

3       (c) A certified reinsurer shall secure obligations assumed  
4 from ceding insurers domiciled in the United States in accordance  
5 with the rating assigned by the commissioner under Subsection (a)  
6 and with the amount of security required by the commissioner by  
7 rule.

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

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

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

15       (e) If a certified reinsurer maintains a trust under  
16 Subchapter D to secure its obligations, and chooses to secure its  
17 obligations incurred as a certified reinsurer with a  
18 multibeneficiary trust, the certified reinsurer shall maintain  
19 separate trust accounts for the obligations incurred under  
20 reinsurance agreements the certified reinsurer issued or renewed  
21 with reduced security as permitted by this section or comparable  
22 laws of other United States jurisdictions and for its obligations  
23 subject to Subchapter D. It is a condition to the grant of  
24 certification under Section 493.1033 that the certified reinsurer  
25 has bound itself, by the language of the trust agreement and  
26 agreement with the insurance commissioner or other chief insurance  
27 regulatory official with principal regulatory oversight over each



1 trust account, to fund, on termination of the trust account, out of  
2 the 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 million.

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 make a determination to defer  
3 to the accredited jurisdiction's certification and the financial  
4 strength rating assigned by that jurisdiction; and

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

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

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

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

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

1 or in the primary certifying state of the reinsurer under this  
2 section; or

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

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

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

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

25 (b) A ceding insurer shall diversify its reinsurance  
26 program. A domestic ceding insurer shall notify the commissioner  
27 not later than the 30th day after the date the insurer cedes to any

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

6 SECTION 1.06. Section 493.151, Insurance Code, is amended  
7 to read as follows:

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

10 (1) a trust that is used to qualify for a reinsurance  
11 credit under Section 493.102(a)(3) and as described by Sections  
12 493.1036(e) and (f); and

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

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

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

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

23 (2) include a trusteed surplus of at least \$20  
24 million, except after the assuming insurer has permanently  
25 discontinued underwriting new business secured by the trust for not  
26 less than three calendar years, the insurance commissioner or other  
27 chief insurance regulatory official with principal regulatory

1 oversight over the trust may authorize a reduction in the required  
2 trusteed surplus, but only after a finding, based on an assessment  
3 of the risk, that the new required surplus level is adequate for the  
4 protection of United States ceding insurers, policyholders, and  
5 claimants in light of reasonably foreseeable adverse loss  
6 development.

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

17 SECTION 1.08. Section 493.153, Insurance Code, is amended  
18 to read as follows:

19 Sec. 493.153. FORM OF TRUST. (a) The trust must be  
20 established in a form approved by the commissioner or an insurance  
21 commissioner or other chief insurance regulatory official of  
22 another state who, under the trust instrument, has principal  
23 regulatory oversight over the trust.

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

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

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

11 (c) Not later than February 28 of each year, if requested by  
12 a beneficiary of the trust fund, an assuming insurer that maintains  
13 a trust fund shall provide or make available to the assuming  
14 insurer's United States ceding insurers or those ceding insurers'  
15 assigns and successors in interest the following information:

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

18 (2) a copy of the assuming insurer's annual and  
19 quarterly financial information, and the insurer's most recent  
20 audited financial statement provided to the commissioner,  
21 including any exhibits and schedules;

22 (3) any financial information provided to the  
23 department or commissioner by the assuming insurer, including any  
24 exhibits and schedules;

25 (4) a copy of any annual and quarterly financial  
26 information provided to the department or commissioner by the  
27 trustee of the trust fund maintained by the assuming insurer,

1 including any exhibits and schedules; and

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

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

7 (1) discloses the financial information provided to  
8 the commissioner relating to reinsurance liabilities attributable  
9 to the ceding insurer; and

10 (2) certifies that the amount of security held in  
11 trust on behalf of the ceding insurer is at least equal to those  
12 amounts as reflected in the report to the department under  
13 Subsection (a).

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

16 (1) consists of sufficient assets to support the  
17 assuming insurer's trust obligations under applicable state laws  
18 and regulations; and

19 (2) includes a trustee surplus of at least \$20  
20 million.

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

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

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

1 business of insurance or reinsurance in this state unless the  
2 assuming insurer agrees in the reinsurance contract:

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

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

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

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

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

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

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

22 (b) If the assuming insurer does not meet the requirements  
23 of Section 493.102(a)(1) or (2), the credit permitted by Section  
24 493.102(a)(3) or (4) may not be allowed unless the assuming insurer  
25 agrees in the trust agreement that:

26 (1) notwithstanding any other provisions in the trust  
27 agreement, the trustee shall comply with an order of the



1 commissioner or a court ordering the trustee to transfer to the  
2 commissioner all assets of the trust fund if:

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

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

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

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

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

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

23 SECTION 1.12. The following provisions are repealed:

24 (1) Chapter 492, Insurance Code; and

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

26 SECTION 1.13. The commissioner of insurance shall adopt  
27 rules to implement Chapter 493, Insurance Code, as amended by this

1 article. Rules adopted under this section apply only to a  
2 reinsurance contract that is entered into or renewed on or after  
3 January 1, 2018.

4 ARTICLE 2. CONFORMING AMENDMENTS

5 SECTION 2.01. Section 36.002, Insurance Code, is amended to  
6 read as follows:

7 Sec. 36.002. ADDITIONAL RULEMAKING AUTHORITY. The  
8 commissioner may adopt reasonable rules that are:

9 (1) necessary to effect the purposes of a provision  
10 of:

- 11 (A) Subchapter B, Chapter 5;
- 12 (B) Subchapter C, Chapter 1806;
- 13 (C) Subchapter A, Chapter 2301;
- 14 (D) Chapter 251, as that chapter relates to  
15 casualty insurance and fidelity, guaranty, and surety bond  
16 insurance;
- 17 (E) Chapter 253;
- 18 (F) Chapter 2008, 2251, or 2252; or
- 19 (G) Subtitle B, Title 10; or

20 (2) appropriate to accomplish the purposes of a  
21 provision of:

- 22 (A) Section 37.051(a), 403.002, [~~492.051(b) or~~  
23 ~~(c)~~] 501.159, 941.003(b)(1) or (c), or 942.003(b)(1) or (c);
- 24 (B) Subchapter H, Chapter 544;
- 25 (C) Chapter 251, as that chapter relates to:
  - 26 (i) automobile insurance;
  - 27 (ii) casualty insurance and fidelity,

1 guaranty, and surety bond insurance;

2 (iii) fire insurance and allied lines;

3 (iv) workers' compensation insurance; or

4 (v) aircraft insurance;

5 (D) Chapter 5, 252, 253, 254, 255, 256, 426, 493,  
6 494, 1804, 1805, 1806, 2171, 6001, 6002, or 6003;

7 (E) Subtitle B, C, D, E, F, H, or I, Title 10;

8 (F) Section 417.008, Government Code; or

9 (G) Chapter 2154, Occupations Code.

10 SECTION 2.02. Section 422.005(a), Insurance Code, is  
11 amended to read as follows:

12 (a) This chapter does not apply to:

13 (1) variable contracts for which separate accounts are  
14 required to be maintained;

15 (2) a reinsurance agreement or any trust account  
16 related to the reinsurance agreement if the agreement and trust  
17 account meet the requirements of Chapter [~~492 or~~] 493;

18 (3) an assessment-as-needed company or insurance  
19 coverage written by an assessment-as-needed company;

20 (4) an insurer while:

21 (A) the insurer is subject to a conservatorship  
22 order issued by the commissioner; or

23 (B) a court-appointed receiver is in charge of  
24 the insurer's affairs; or

25 (5) an insurer's reserve assets that are held,  
26 deposited, pledged, or otherwise encumbered to secure, offset,  
27 protect, or meet the insurer's reserve liabilities established in a

1 reinsurance agreement under which the insurer reinsures the  
2 insurance policy liabilities of a ceding insurer if:

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

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

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

14 (ii) held subject to withdrawal by the  
15 ceding insurer; and

16 (iii) held under the separate or joint  
17 control of the ceding insurer.

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

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

27 (1) this chapter;

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

13 SECTION 2.04. Section 841.257, Insurance Code, is amended  
14 to read as follows:

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

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

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

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

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

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

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

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

- 18           (1) reinsurance that complies with Chapter 493 [~~492~~];  
19           (2) a letter of credit that complies with Section  
20 493.104(b)(2)(C) [~~492.104(b)(2)(C)~~]; or  
21           (3) guaranties from a holding company or an affiliated  
22 company as provided by Section 841.417.

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

25          (b) Unless otherwise approved in advance by the  
26 commissioner, a limited purpose subsidiary life insurance company  
27 may not assume or retain exposure to reinsurance losses for the

1 company's own account that are not funded by:

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

6 (2) letters of credit that qualify under Section  
7 [493.104\(b\)\(2\)\(C\)](#) [~~[492.104\(b\)\(2\)\(C\)](#)~~]; or

8 (3) guaranties of a holding company or an affiliated  
9 company as provided by Section [841.417](#).

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

16 (1) the proposed reinsurance complies with Chapter  
17 [493](#) [~~[492](#)~~];

18 (2) the proposed reinsurer has sufficient liquidity,  
19 admitted assets, and policyholder surplus to support the  
20 liabilities assumed under the reinsurance contract; and

21 (3) the proposed reinsurance contract would not result  
22 in a hazardous financial condition for the limited purpose  
23 subsidiary life insurance company.

24 SECTION 2.09. Section [862.101\(f\)](#), Insurance Code, is  
25 amended to read as follows:

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

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

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

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

- 8 (1) Article 21.47;
- 9 (2) Section 38.001;
- 10 (3) Chapter 86;
- 11 (4) Subchapter A, Chapter 401;
- 12 (5) Sections 401.051, 401.052, 401.054-401.062,  
13 401.151, 401.152, 401.155, and 401.156;
- 14 (6) Sections 403.001, 403.052, and 403.102;
- 15 (7) Subchapter A, Chapter 404;
- 16 (8) Section 421.001;
- 17 (9) Subchapter D, Chapter 425;
- 18 (10) Chapter 443;
- 19 (11) Chapter 493 [~~492~~], other than Section 493.051(b)  
20 [~~Sections 492.051(b) and (c)~~];
- 21 (12) Chapter 541;
- 22 (13) Sections 801.001-801.002;
- 23 (14) Sections 801.051-801.055;
- 24 (15) Section 801.057;
- 25 (16) Sections 801.101-801.102;
- 26 (17) Subchapter A, Chapter 821;
- 27 (18) Chapter 824;



- 1 (19) Chapter 828;
- 2 (20) Section 841.251;
- 3 (21) Section 841.259;
- 4 (22) Section 841.261;
- 5 (23) Section 841.703; and
- 6 (24) Chapter 4152.

7 SECTION 2.11. Section 884.402, Insurance Code, is amended  
8 to read as follows:

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

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

18 (2) issue any kind of health or accident insurance  
19 coverage authorized by:

20 (A) Title 7;

21 (B) Chapter 3, 704, 841, 846, 982, 1201, 1202,  
22 1203, 1210, 1251, 1252, 1253, 1254, 1301, 1351, 1354, 1359, 1364,  
23 1368, 1501, 1504, 1505, [~~1506~~] 1552, 1575, 1576, 1579, 1581, 1625,  
24 1651, 1652, or 1701;

25 (C) Chapter 493 [~~492~~], other than Section  
26 493.051(b) [~~Sections 492.051(b) and (c)~~];

27 (D) Subchapter B, Chapter 38, Subchapter D,

1 Chapter 425, Subchapter A or F, Chapter 1204, Subchapter A, Chapter  
2 1273, Subchapter A, B, or D, Chapter 1355, Subchapter A, Chapter  
3 1366, or Subchapter A, Chapter 1507;

4 (E) Section 1204.151, 1204.153, 1204.154, or  
5 1451.051; or

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

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

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

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

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

17 (a) The following provisions do not apply to marine  
18 insurance:

19 (1) Sections 36.002, 37.051, 403.002, [~~492.051~~] and  
20 501.159;

21 (2) Subchapter H, Chapter 544;

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

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

25 SECTION 2.14. Section 4152.152, Insurance Code, is amended  
26 to read as follows:

27 Sec. 4152.152. PLACEMENT OF REINSURANCE WITH UNAUTHORIZED

1 REINSURER. Unless the ceding insurer releases the broker in  
2 writing from the broker's obligations under this section, a broker  
3 who places reinsurance on behalf of an authorized ceding insurer  
4 with a reinsurer that is not authorized, accredited, or trustee in  
5 this state under Chapter [~~492 or~~] 493 shall:

6 (1) exercise due diligence in inquiring into the  
7 financial condition of the reinsurer;

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

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

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

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

19 (1) exercise due diligence in inquiring into the  
20 financial condition of the reinsurer;

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

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

25 ARTICLE 3. TRANSITION; EFFECTIVE DATE

26 SECTION 3.01. The changes in law made by this Act apply only  
27 to a reinsurance contract that is entered into or renewed on or

1 after January 1, 2018. A reinsurance contract that is entered into  
2 or renewed before January 1, 2018, is governed by the law as it  
3 existed immediately before the effective date of this Act, and that  
4 law is continued in effect for that purpose.

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