

By: Hancock

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(a), Insurance Code, is
12 amended to read as follows:

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

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

17 (2) a Mexican casualty insurance company;

18 (3) a Lloyd's plan;

19 (4) a reciprocal or interinsurance exchange;

20 (5) a nonprofit legal service corporation;

21 (6) a county mutual insurance company;

22 (7) a farm mutual insurance company;

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

24 (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 adequate collateral as determined by
11 the commissioner.

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

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

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

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

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

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

27 (2) maintain minimum capital and surplus in an amount

1 required by the commissioner by rule;

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

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;

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

16 (8) satisfy any other requirements for certification
17 required by the commissioner by rule.

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

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

25 Sec. 493.1034. CERTAIN ASSOCIATIONS MAY BE CERTIFIED
26 REINSURERS. (a) An association that includes incorporated and
27 individual unincorporated underwriters may be a certified

1 reinsurer under Section 493.1033. To be eligible for certification
2 the association must satisfy the requirements of Section 493.1033
3 and this section.

4 (b) The association must satisfy minimum capital and
5 surplus requirements through the capital and surplus equivalents,
6 net of liabilities, of the association and its members that must
7 include a joint central fund in an amount determined by the
8 commissioner to provide adequate protection that may be applied to
9 any unsatisfied obligation of the association or any of its
10 members.

11 (c) The incorporated members of the association may not be
12 engaged in any business other than underwriting and are subject to
13 the same level of regulation and solvency control by the
14 association's domiciliary regulator as are the unincorporated
15 members.

16 (d) Not later than the 90th day after the date the
17 association's financial statements are due to be filed with the
18 association's domiciliary regulator, the association shall provide
19 to the commissioner:

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

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

26 Sec. 493.1035. QUALIFIED JURISDICTIONS. (a) The
27 commissioner shall develop and publish a list of qualified

1 jurisdictions in one of which an assuming insurer must be licensed
2 and domiciled in order to be considered for certification by the
3 commissioner under Section 493.1033 as a certified reinsurer. In
4 developing the list, the commissioner shall consider the list of
5 qualified jurisdictions published through the National Association
6 of Insurance Commissioners committee process.

7 (b) In order to determine whether a jurisdiction of an
8 assuming insurer located outside of the United States is eligible
9 to be recognized as a qualified jurisdiction under Subsection (a),
10 the commissioner shall evaluate the appropriateness and
11 effectiveness of the reinsurance supervisory system of the
12 jurisdiction, both initially and on an ongoing basis, and consider
13 the rights, benefits, and extent of reciprocal recognition afforded
14 by the jurisdiction to reinsurers licensed and domiciled in the
15 United States.

16 (c) In order to be qualified a jurisdiction must agree in
17 writing to share information and cooperate with the commissioner
18 with respect to all certified reinsurers doing business in the
19 jurisdiction.

20 (d) A jurisdiction may not be recognized as a qualified
21 jurisdiction if the commissioner has determined that the
22 jurisdiction does not adequately and promptly enforce final United
23 States judgments and arbitration awards. Additional factors may be
24 considered in the discretion of the commissioner.

25 (e) If the commissioner approves under this section a
26 jurisdiction as qualified that does not appear on the list of
27 qualified jurisdictions published through the National Association

1 of Insurance Commissioners committee process, the commissioner
2 shall provide documentation in accordance with rules adopted by the
3 commissioner. The rules must include a requirement for a
4 thoroughly documented justification of the approval.

5 (f) The commissioner shall include as a qualified
6 jurisdiction under this section a United States jurisdiction that
7 meets the requirements for accreditation under the National
8 Association of Insurance Commissioners financial standards and
9 accreditation program.

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

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

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

20 (c) A certified reinsurer shall secure obligations assumed
21 from ceding insurers domiciled in the United States in accordance
22 with the rating assigned by the commissioner under Subsection (a)
23 and with the amount of security required by the commissioner by
24 rule.

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

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

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

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

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

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

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

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

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

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

19 (1) the commissioner may make a determination to defer
20 to the accredited jurisdiction's certification and the financial
21 strength rating assigned by that jurisdiction; and

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

25 Sec. 493.1038. SUSPENSION OR REVOCATION OF ACCREDITATION OR
26 CERTIFICATION; INACTIVE STATUS. (a) A certified reinsurer that
27 ceases to assume new business in this state may request to maintain

1 its certification in inactive status to continue to qualify for a
2 reduction in security for in-force business. An inactive certified
3 reinsurer shall continue to comply with all applicable requirements
4 of this section, and the commissioner shall assign a financial
5 strength rating that takes into account, if relevant, the reasons
6 the reinsurer is not assuming new business.

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

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

14 (2) the commissioner's order is based on regulatory
15 action by the reinsurer's domiciliary jurisdiction or the voluntary
16 surrender or termination of the reinsurer's eligibility to transact
17 insurance or reinsurance business in its domiciliary jurisdiction
18 or in the primary certifying state of the reinsurer under this
19 section; or

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

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

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

6 Sec. 493.1039. CONCENTRATION RISK. (a) A ceding insurer
7 shall manage its reinsurance recoverable proportionate to its book
8 of business. A domestic ceding insurer shall notify the
9 commissioner not later than the 30th day after the date reinsurance
10 recoverable from any single assuming insurer, or group of
11 affiliated assuming insurers, exceeds or is likely to exceed 50
12 percent of the domestic ceding insurer's last reported surplus to
13 policyholders. The notification shall demonstrate that the
14 exposure is safely managed by the domestic ceding insurer.

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

23 SECTION 1.06. Section 493.151, Insurance Code, is amended
24 to read as follows:

25 Sec. 493.151. APPLICABILITY OF SUBCHAPTER. This subchapter
26 applies to:

27 (1) a trust that is used to qualify for a reinsurance

1 credit under Section 493.102(a)(3) and as described by Sections
2 493.1036(e) and (f); and

3 (2) [~~to~~] the assuming insurer that maintains the trust
4 fund.

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

8 (a) If the assuming insurer is a single insurer, the trust
9 must:

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

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

24 (a-1) The risk assessment described by Subsection (a)(2)
25 may involve an actuarial review, including an independent analysis
26 of reserves and cash flows, and must consider all material risk
27 factors, including when applicable, the lines of business involved,

1 the stability of the incurred loss estimates, and the effect of the
2 surplus requirements on the assuming insurer's liquidity or
3 solvency. The minimum required trusteed surplus may not be reduced
4 to an amount less than 30 percent of the assuming insurer's
5 liabilities attributable to reinsurance ceded by United States
6 ceding insurers.

7 SECTION 1.08. Section 493.153, Insurance Code, is amended
8 to read as follows:

9 Sec. 493.153. FORM OF TRUST. (a) The trust must be
10 established in a form approved by the commissioner or an insurance
11 commissioner or other chief insurance regulatory official of
12 another state who, under the trust instrument, has principal
13 regulatory oversight over the trust.

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

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

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

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

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

8 (2) a copy of the assuming insurer's annual and
9 quarterly financial information, and the insurer's most recent
10 audited financial statement provided to the commissioner,
11 including any exhibits and schedules;

12 (3) any financial information provided to the
13 department or commissioner by the assuming insurer, including any
14 exhibits and schedules;

15 (4) a copy of any annual and quarterly financial
16 information provided to the department or commissioner by the
17 trustee of the trust fund maintained by the assuming insurer,
18 including any exhibits and schedules; and

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

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

24 (1) discloses the financial information provided to
25 the commissioner relating to reinsurance liabilities attributable
26 to the ceding insurer; and

27 (2) certifies that the amount of security held in

1 trust on behalf of the ceding insurer is at least equal to those
2 amounts as reflected in the report to the commissioner under
3 Subsection (a).

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

6 (1) consists of sufficient assets to support the
7 assuming insurer's trust obligations under applicable state laws
8 and regulations; and

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

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

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

15 (a) A ceding insurer may not be allowed credit under Section
16 493.102(a)(3) for reinsurance ceded to an assuming insurer that is
17 not authorized, ~~or~~ accredited, or certified to engage in the
18 business of insurance or reinsurance in this state unless the
19 assuming insurer agrees in the reinsurance contract:

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

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

25 (B) comply with all requirements necessary to
26 give the court jurisdiction; and

27 (C) abide by the final decision of that court or,

1 if the court's decision is appealed, of the appellate court; and

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

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

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

12 (b) If the assuming insurer does not meet the requirements
13 of Section 493.102(a)(1) or (2), the credit permitted by Section
14 493.102(a)(3) or (4) may not be allowed unless the assuming insurer
15 agrees in the trust agreement that:

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

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

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

27 (2) claims in a proceeding described by Subdivision

1 (1)(B) must be filed with the commissioner;

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

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

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

13 SECTION 1.12. The following provisions are repealed:

14 (1) Chapter 492, Insurance Code; and

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

16 SECTION 1.13. The commissioner of insurance shall adopt
17 rules to implement Chapter 493, Insurance Code, as amended by this
18 article. Rules adopted under this section apply only to a
19 reinsurance contract that is entered into or renewed on or after
20 January 1, 2018.

21 ARTICLE 2. CONFORMING AMENDMENTS

22 SECTION 2.01. Section 36.002, Insurance Code, is amended to
23 read as follows:

24 Sec. 36.002. ADDITIONAL RULEMAKING AUTHORITY. The
25 commissioner may adopt reasonable rules that are:

26 (1) necessary to effect the purposes of a provision
27 of:

- 1 (A) Subchapter B, Chapter 5;
- 2 (B) Subchapter C, Chapter 1806;
- 3 (C) Subchapter A, Chapter 2301;
- 4 (D) Chapter 251, as that chapter relates to
- 5 casualty insurance and fidelity, guaranty, and surety bond
- 6 insurance;
- 7 (E) Chapter 253;
- 8 (F) Chapter 2008, 2251, or 2252; or
- 9 (G) Subtitle B, Title 10; or
- 10 (2) appropriate to accomplish the purposes of a
- 11 provision of:
- 12 (A) Section 37.051(a), 403.002, [~~492.051(b) or~~
- 13 ~~(c),~~] 501.159, 941.003(b)(1) or (c), or 942.003(b)(1) or (c);
- 14 (B) Subchapter H, Chapter 544;
- 15 (C) Chapter 251, as that chapter relates to:
- 16 (i) automobile insurance;
- 17 (ii) casualty insurance and fidelity,
- 18 guaranty, and surety bond insurance;
- 19 (iii) fire insurance and allied lines;
- 20 (iv) workers' compensation insurance; or
- 21 (v) aircraft insurance;
- 22 (D) Chapter 5, 252, 253, 254, 255, 256, 426, 493,
- 23 494, 1804, 1805, 1806, 2171, 6001, 6002, or 6003;
- 24 (E) Subtitle B, C, D, E, F, H, or I, Title 10;
- 25 (F) Section 417.008, Government Code; or
- 26 (G) Chapter 2154, Occupations Code.

27 SECTION 2.02. Section 422.005(a), Insurance Code, is

1 amended to read as follows:

2 (a) This chapter does not apply to:

3 (1) variable contracts for which separate accounts are
4 required to be maintained;

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

8 (3) an assessment-as-needed company or insurance
9 coverage written by an assessment-as-needed company;

10 (4) an insurer while:

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

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

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

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

22 (B) in accordance with a written agreement
23 between the ceding insurer and the reinsurer, reserve assets
24 substantially equal to the reserve liabilities the reinsurer must
25 establish on the reinsured business are:

26 (i) deposited by or withheld from the
27 reinsurer and held in the custody of the ceding insurer, or

1 deposited and held in a trust account with a state or national bank
2 domiciled in this state, as security for the payment of the
3 reinsurer's obligations under the reinsurance agreement;

4 (ii) held subject to withdrawal by the
5 ceding insurer; and

6 (iii) held under the separate or joint
7 control of the ceding insurer.

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

10 Sec. 841.002. APPLICABILITY OF CHAPTER AND OTHER LAW.
11 Except as otherwise expressly provided by this code, each insurance
12 company incorporated or engaging in business in this state as a life
13 insurance company, an accident insurance company, a life and
14 accident insurance company, a health and accident insurance
15 company, or a life, health, and accident insurance company is
16 subject to:

17 (1) this chapter;

18 (2) Chapter 3;

19 (3) Chapters [425](#) and [493](#) [~~492~~];

20 (4) Title 7;

21 (5) Sections [1202.051](#), [1204.151](#), [1204.153](#), and
22 [1204.154](#);

23 (6) Subchapter A, Chapter [1202](#), Subchapters A and F,
24 Chapter [1204](#), Subchapter A, Chapter [1273](#), Subchapters A, B, and D,
25 Chapter [1355](#), and Subchapter A, Chapter [1366](#);

26 (7) Subchapter A, Chapter [1507](#);

27 (8) Chapters [1203](#), [1210](#), 1251-1254, [1301](#), [1351](#), [1354](#),

1 1359, 1364, 1368, 1505, [~~1506,~~] 1651, 1652, and 1701; and

2 (9) Chapter 177, Local Government Code.

3 SECTION 2.04. Section 841.257, Insurance Code, is amended
4 to read as follows:

5 Sec. 841.257. KINDS OF BUSINESS LIMITED. An insurance
6 company authorized to engage in the business of insurance under
7 this chapter or in accordance with Section 982.051 may not accept a
8 risk or write an insurance policy in this state or any other state
9 or country other than:

10 (1) a life, accident, or health insurance policy;

11 (2) reinsurance under [~~Sections 492.051(b) and (c) or~~]
12 Chapter 493 by a life insurance company authorized to engage in the
13 business of insurance in this state; or

14 (3) reinsurance under Chapter 494 by a domestic
15 insurance company.

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

18 (10) "Letter of credit" means a clean, unconditional,
19 irrevocable letter of credit issued or confirmed by a qualified
20 United States financial institution, as defined by Section
21 493.104(b)(2)(C) [~~492.104(b)(2)(C)~~].

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

24 (c) A limited purpose subsidiary life insurance company
25 organized under this subchapter is considered to be licensed to
26 transact the business of reinsurance for the purposes of Section
27 493.051 [~~492.051~~], but may only reinsure risks of the company's

1 affiliated companies.

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

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

8 (1) reinsurance that complies with Chapter 493 [~~492~~];

9 (2) a letter of credit that complies with Section
10 493.104(b)(2)(C) [~~492.104(b)(2)(C)~~]; or

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

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

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

19 (1) premium and other amounts payable by the ceding
20 insurer to the limited purpose subsidiary life insurance company
21 under the reinsurance contract, or any return on the investment of
22 the premiums or other amounts;

23 (2) letters of credit that qualify under Section
24 493.104(b)(2)(C) [~~492.104(b)(2)(C)~~]; or

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

27 (c) A limited purpose subsidiary life insurance company may

1 cede risks assumed under a reinsurance contract to one or more
2 reinsurers through the purchase of reinsurance, subject to the
3 prior approval of the commissioner. The commissioner may approve a
4 reinsurance contract under this subsection if the commissioner
5 finds that:

6 (1) the proposed reinsurance complies with Chapter
7 [493](#) [~~492~~];

8 (2) the proposed reinsurer has sufficient liquidity,
9 admitted assets, and policyholder surplus to support the
10 liabilities assumed under the reinsurance contract; and

11 (3) the proposed reinsurance contract would not result
12 in a hazardous financial condition for the limited purpose
13 subsidiary life insurance company.

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

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

18 (1) Subchapter A, Chapter [491](#); and

19 (2) [~~Sections [492.051](#)(b) and (c), and~~

20 [~~3~~] Chapter [493](#).

21 SECTION 2.10. Section [884.002](#)(c), Insurance Code, is
22 amended to read as follows:

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

25 (1) Article 21.47;

26 (2) Section [38.001](#);

27 (3) Chapter [86](#);

- 1 (4) Subchapter A, Chapter 401;
- 2 (5) Sections 401.051, 401.052, 401.054-401.062,
- 3 401.151, 401.152, 401.155, and 401.156;
- 4 (6) Sections 403.001, 403.052, and 403.102;
- 5 (7) Subchapter A, Chapter 404;
- 6 (8) Section 421.001;
- 7 (9) Subchapter D, Chapter 425;
- 8 (10) Chapter 443;
- 9 (11) Chapter 493 [492], other than Section 493.051(b)
- 10 [~~Sections 492.051(b) and (c)~~];
- 11 (12) Chapter 541;
- 12 (13) Sections 801.001-801.002;
- 13 (14) Sections 801.051-801.055;
- 14 (15) Section 801.057;
- 15 (16) Sections 801.101-801.102;
- 16 (17) Subchapter A, Chapter 821;
- 17 (18) Chapter 824;
- 18 (19) Chapter 828;
- 19 (20) Section 841.251;
- 20 (21) Section 841.259;
- 21 (22) Section 841.261;
- 22 (23) Section 841.703; and
- 23 (24) Chapter 4152.

24 SECTION 2.11. Section 884.402, Insurance Code, is amended
25 to read as follows:

26 Sec. 884.402. ADDITIONAL COVERAGE. A stipulated premium
27 company that, at the time it begins to issue coverages under this

1 subchapter, possesses the amounts of capital and unencumbered
2 surplus equal to or greater than the corresponding amounts required
3 for organization of a life and health company under Sections
4 841.052, 841.054, 841.204, 841.205, 841.301, and 841.302 may,
5 subject to Section 884.403:

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

8 (2) issue any kind of health or accident insurance
9 coverage authorized by:

10 (A) Title 7;

11 (B) Chapter 3, 704, 841, 846, 982, 1201, 1202,
12 1203, 1210, 1251, 1252, 1253, 1254, 1301, 1351, 1354, 1359, 1364,
13 1368, 1501, 1504, 1505, [~~1506~~] 1552, 1575, 1576, 1579, 1581, 1625,
14 1651, 1652, or 1701;

15 (C) Chapter 493 [~~492~~], other than Section
16 493.051(b) [~~Sections 492.051(b) and (c)~~];

17 (D) Subchapter B, Chapter 38, Subchapter D,
18 Chapter 425, Subchapter A or F, Chapter 1204, Subchapter A, Chapter
19 1273, Subchapter A, B, or D, Chapter 1355, Subchapter A, Chapter
20 1366, or Subchapter A, Chapter 1507;

21 (E) Section 1204.151, 1204.153, 1204.154, or
22 1451.051; or

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

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

27 SECTION 2.12. Section 964.052(d), Insurance Code, is

1 amended to read as follows:

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

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

7 (a) The following provisions do not apply to marine
8 insurance:

- 9 (1) Sections 36.002, 37.051, 403.002, [~~492.051,~~] and
10 501.159;
- 11 (2) Subchapter H, Chapter 544;
- 12 (3) Chapters 5, 252, 253, 493, 494, 1804, 1805, 1806,
13 and 2171; and
- 14 (4) Subtitles B, C, D, E, F, H, and I.

15 SECTION 2.14. Section 4152.152, Insurance Code, is amended
16 to read as follows:

17 Sec. 4152.152. PLACEMENT OF REINSURANCE WITH UNAUTHORIZED
18 REINSURER. Unless the ceding insurer releases the broker in
19 writing from the broker's obligations under this section, a broker
20 who places reinsurance on behalf of an authorized ceding insurer
21 with a reinsurer that is not authorized, accredited, or trusted in
22 this state under Chapter [~~492 or~~] 493 shall:

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

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

27 (3) make available to the ceding insurer a copy of the

1 current financial statement of the reinsurer.

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

4 (a) Unless the ceding insurer releases the manager in
5 writing from the manager's obligations under this section, a
6 manager who places reinsurance on behalf of an authorized ceding
7 insurer with a reinsurer that is not authorized, accredited, or
8 trustee in 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 manager'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 ARTICLE 3. TRANSITION; EFFECTIVE DATE

16 SECTION 3.01. The changes in law made by this Act apply only
17 to a reinsurance contract that is entered into or renewed on or
18 after January 1, 2018. A reinsurance contract that is entered into
19 or renewed before January 1, 2018, is governed by the law as it
20 existed immediately before the effective date of this Act, and that
21 law is continued in effect for that purpose.

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