

1-1 By: Hancock S.B. No. 1070
 1-2 (In the Senate - Filed February 23, 2017; March 7, 2017,
 1-3 read first time and referred to Committee on Business & Commerce;
 1-4 April 24, 2017, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 24, 2017,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Hancock	X			
1-9 Creighton	X			
1-10 Campbell	X			
1-11 Estes	X			
1-12 Nichols	X			
1-13 Schwertner	X			
1-14 Taylor of Galveston	X			
1-15 Whitmire	X			
1-16 Zaffirini	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1070 By: Hancock

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to authorized reinsurance and financial statement credit
 1-22 and accounting for reinsurance.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 ARTICLE 1. AUTHORIZED REINSURANCE; CREDIT AND ACCOUNTING FOR
 1-25 REINSURANCE

1-26 SECTION 1.01. The chapter heading to Chapter 493, Insurance
 1-27 Code, is amended to read as follows:

1-28 CHAPTER 493. AUTHORIZED REINSURANCE; CREDIT AND ACCOUNTING [FOR
 1-29 PROPERTY AND CASUALTY INSURERS]

1-30 SECTION 1.02. Section 493.002(a), Insurance Code, is
 1-31 amended to read as follows:

1-32 (a) This [Except as provided by Subsection (b), this]
 1-33 chapter applies to all insurers, including:

1-34 (1) a stock or mutual property and casualty insurance
 1-35 company;

1-36 (2) a Mexican casualty insurance company;

1-37 (3) a Lloyd's plan;

1-38 (4) a reciprocal or interinsurance exchange;

1-39 (5) a nonprofit legal service corporation;

1-40 (6) a county mutual insurance company;

1-41 (7) a farm mutual insurance company;

1-42 (8) a risk retention group; ~~and~~

1-43 (9) any insurer writing a line of insurance regulated
 1-44 by Title 10;

1-45 (10) all life, health, and accident insurance
 1-46 companies regulated by the department, including:

1-47 (A) a stock or mutual life, health, or accident
 1-48 insurance company;

1-49 (B) a fraternal benefit society; and

1-50 (C) a nonprofit hospital, medical, or dental
 1-51 service corporation, including a group hospital service
 1-52 corporation operating under Chapter 842; and

1-53 (11) a health maintenance organization operating
 1-54 under Chapter 843.

1-55 SECTION 1.03. Section 493.051(b), Insurance Code, is
 1-56 amended to read as follows:

1-57 (b) An insurer authorized to engage in business in this
 1-58 state ~~[that writes any line of insurance regulated by Title 10]~~ may
 1-59 provide reinsurance under this chapter on any line of insurance in
 1-60 which the insurer is authorized to engage in this state [while the

2-1 ~~insurer is in compliance with law].~~

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

2-4 (a) A ceding insurer may be allowed credit for reinsurance
2-5 ceded, as an asset or as a deduction from liability, only if the
2-6 reinsurance is ceded to an assuming insurer that:

2-7 (1) is authorized to engage in the business of
2-8 insurance or reinsurance in this state;

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

2-11 (3) subject to Subchapter D, maintains, in a qualified
2-12 United States financial institution that has been granted the
2-13 authority to operate with fiduciary powers, a trust fund to pay
2-14 valid claims of:

2-15 (A) the assuming insurer's United States
2-16 policyholders and ceding insurers; and

2-17 (B) the policyholders' and ceding insurers'
2-18 assigns and successors in interest; or

2-19 (4) is certified as a reinsurer in this state under
2-20 Section 493.1033 and maintains an amount of security based on the
2-21 rating assigned by the commissioner and based on the requirements
2-22 under Section 493.1036.

2-23 SECTION 1.05. Subchapter C, Chapter 493, Insurance Code, is
2-24 amended by adding Sections 493.1033, 493.1034, 493.1035, 493.1036,
2-25 493.1037, 493.1038, and 493.1039 to read as follows:

2-26 Sec. 493.1033. CREDIT ALLOWED FOR CERTAIN CERTIFIED
2-27 REINSURERS. (a) Credit shall be allowed when the reinsurance is
2-28 ceded to an assuming insurer that:

2-29 (1) is certified by the commissioner as a reinsurer in
2-30 this state; and

2-31 (2) secures its obligations in accordance with the
2-32 requirements of this section and Sections 493.1034-493.1038.

2-33 (b) To be eligible for certification, the assuming insurer
2-34 must:

2-35 (1) be domiciled and licensed to transact insurance or
2-36 reinsurance in a jurisdiction listed as qualified on the list
2-37 published by the commissioner under Section 493.1035;

2-38 (2) maintain minimum capital and surplus in an amount
2-39 not less than \$500 million;

2-40 (3) maintain a financial strength rating in accordance
2-41 with Section 493.1036;

2-42 (4) agree to submit to the jurisdiction of any court of
2-43 competent jurisdiction in any state of the United States;

2-44 (5) appoint the commissioner as its agent for service
2-45 of process in this state; and

2-46 (6) provide security for 100 percent of the assuming
2-47 insurer's liabilities for reinsurance ceded by United States ceding
2-48 insurers if the assuming insurer resists enforcement of a final
2-49 judgment of a court of the United States.

2-50 (c) Credit for reinsurance under this section applies only
2-51 to a reinsurance contract entered into or renewed on or after the
2-52 effective date of the certification of the assuming insurer.

2-53 Sec. 493.1034. CERTAIN ASSOCIATIONS MAY BE CERTIFIED
2-54 REINSURERS. (a) An association that includes incorporated and
2-55 individual unincorporated underwriters may be a certified
2-56 reinsurer under Section 493.1033. To be eligible for certification
2-57 the association must satisfy the requirements of Section 493.1033
2-58 and this section.

2-59 (b) The association must satisfy minimum capital and
2-60 surplus requirements through the capital and surplus equivalents,
2-61 net of liabilities, of the association and its members that must
2-62 include a joint central fund in an amount determined by the
2-63 commissioner to provide adequate protection that may be applied to
2-64 any unsatisfied obligation of the association or any of its
2-65 members.

2-66 (c) The incorporated members of the association may not be
2-67 engaged in any business other than underwriting and are subject to
2-68 the same level of regulation and solvency control by the
2-69 association's domiciliary regulator as are the unincorporated

3-1 members.

3-2 (d) Not later than the 90th day after the date the
 3-3 association's financial statements are due to be filed with the
 3-4 association's domiciliary regulator, the association shall provide
 3-5 to the commissioner:

3-6 (1) an annual certification by the association's
 3-7 domiciliary regulator of the solvency of each underwriter member;
 3-8 or

3-9 (2) if a certification described by Subdivision (1) is
 3-10 unavailable, financial statements, prepared by independent public
 3-11 accountants, of each underwriter member of the association.

3-12 Sec. 493.1035. QUALIFIED JURISDICTIONS. (a) The
 3-13 commissioner shall develop and publish a list of qualified
 3-14 jurisdictions in one of which an assuming insurer must be licensed
 3-15 and domiciled in order to be considered for certification by the
 3-16 commissioner under Section 493.1033 as a certified reinsurer. In
 3-17 developing the list, the commissioner shall consider the following
 3-18 factors:

3-19 (1) the framework under which the assuming insurer is
 3-20 regulated;

3-21 (2) the structure and authority of the domiciliary
 3-22 regulator with regard to solvency regulation requirements and
 3-23 financial surveillance;

3-24 (3) the substance of financial and operating standards
 3-25 for assuming insurers in the domiciliary jurisdiction;

3-26 (4) the form and substance of financial reports
 3-27 required to be filed or made publicly available by reinsurers in the
 3-28 domiciliary jurisdiction and the accounting principles used in
 3-29 those reports;

3-30 (5) the willingness of the domiciliary regulator to
 3-31 cooperate with other regulators in the United States and, in
 3-32 particular, the commissioner;

3-33 (6) the history of performance by assuming insurers in
 3-34 the domiciliary jurisdiction;

3-35 (7) evidence of problems with the enforcement of final
 3-36 United States judgments in the domiciliary jurisdiction; and

3-37 (8) any other information that shows that
 3-38 qualification of the jurisdiction would be beneficial or harmful to
 3-39 insurers or consumers in this state.

3-40 (b) In order to determine whether a jurisdiction of an
 3-41 assuming insurer located outside of the United States is eligible
 3-42 to be recognized as a qualified jurisdiction under Subsection (a),
 3-43 the commissioner shall evaluate the appropriateness and
 3-44 effectiveness of the reinsurance supervisory system of the
 3-45 jurisdiction, both initially and on an ongoing basis, and consider
 3-46 the rights, benefits, and extent of recognition afforded by the
 3-47 jurisdiction to reinsurers licensed and domiciled in the United
 3-48 States.

3-49 (c) In order to be qualified a jurisdiction must agree in
 3-50 writing to share information and cooperate with the commissioner
 3-51 with respect to all certified reinsurers doing business in the
 3-52 jurisdiction.

3-53 (d) A jurisdiction may not be recognized as a qualified
 3-54 jurisdiction if the commissioner determines that the jurisdiction
 3-55 does not or may not adequately and promptly enforce final United
 3-56 States judgments or arbitration awards.

3-57 (e) If a certified reinsurer's domiciliary jurisdiction
 3-58 ceases to be a qualified jurisdiction, the commissioner may suspend
 3-59 the reinsurer's certification indefinitely, instead of revoking
 3-60 the certification.

3-61 Sec. 493.1036. REQUIREMENTS FOR CERTIFIED REINSURER.
 3-62 (a) The commissioner shall assign a rating to each certified
 3-63 reinsurer based on the factors listed in Subsections (d)-(h).

3-64 (b) The commissioner shall publish a list of the ratings
 3-65 assigned under this section for all certified reinsurers.

3-66 (c) A certified reinsurer shall secure obligations assumed
 3-67 from ceding insurers domiciled in the United States in accordance
 3-68 with the rating assigned by the commissioner under Subsection (a)
 3-69 and with the amount of required security computed as a percentage of

4-1 those obligations according to the following chart:

	<u>Rating</u>	<u>Security Required</u>
4-3	<u>Secure - 1</u>	<u>0%</u>
4-4	<u>Secure - 2</u>	<u>10%</u>
4-5	<u>Secure - 3</u>	<u>20%</u>
4-6	<u>Secure - 4</u>	<u>50%</u>
4-7	<u>Secure - 5</u>	<u>75%</u>
4-8	<u>Vulnerable - 6</u>	<u>100%</u>

4-9 (d) A certified reinsurer must maintain financial strength
 4-10 ratings from at least two of the rating agencies listed in
 4-11 Subsection (e). The ratings must be based on interactive
 4-12 communication between the rating agency and the certified
 4-13 reinsurer, and may not be based solely on publicly available
 4-14 information. The financial strength ratings are one factor in
 4-15 determining the rating the commissioner assigns to the certified
 4-16 reinsurer.

4-17 (e) The following rating agencies are acceptable for
 4-18 purposes of Subsection (d):

- 4-19 (1) Standard & Poor's Financial Services LLC;
- 4-20 (2) Moody's Investors Service, Inc.;
- 4-21 (3) Fitch Ratings Ltd.;
- 4-22 (4) A.M. Best Company, Inc.; or
- 4-23 (5) another nationally recognized statistical rating
 4-24 organization.

4-25 (f) A certified reinsurer must be rated on a legal entity
 4-26 basis, giving due consideration to the group rating when
 4-27 appropriate, except that an association that includes incorporated
 4-28 and individual unincorporated underwriters that has been approved
 4-29 to do business as a single certified reinsurer may be evaluated on
 4-30 the basis of the association's group rating. The commissioner may
 4-31 consider the following factors as part of the initial and ongoing
 4-32 evaluation process in assigning a rating:

- 4-33 (1) a certified reinsurer's financial strength rating
 4-34 from an acceptable rating agency as described by Subsection (e);
- 4-35 (2) the business practices of the certified reinsurer
 4-36 in dealing with ceding insurers, including the certified
 4-37 reinsurer's record of compliance with reinsurance contractual
 4-38 terms and obligations;
- 4-39 (3) for a certified reinsurer domiciled in the United
 4-40 States, a review of the most recent applicable annual statement
 4-41 blanks:

4-42 (A) Schedule F for property and casualty
 4-43 reinsurers; or

4-44 (B) Schedule S for life and health reinsurers;
 4-45 (4) the market conduct and prompt payment of claims
 4-46 history of the certified reinsurer under reinsurance agreements,
 4-47 including the proportion of obligations that are more than 90 days
 4-48 past due or in dispute;

4-49 (5) regulatory actions against the certified
 4-50 reinsurer;

4-51 (6) the report of the independent auditor on the
 4-52 financial statements of the insurance enterprise, on a basis
 4-53 described in Subdivision (7);

4-54 (7) for a certified reinsurer not domiciled in the
 4-55 United States, three years of audited financial statements filed
 4-56 with the domiciliary regulator on one of the following accounting
 4-57 bases:

4-58 (A) audited United States generally accepted
 4-59 accounting principles (GAAP) basis, if available;

4-60 (B) audited International Financial Reporting
 4-61 Standards (IFRS) basis, which must include an audited footnote
 4-62 reconciling equity and net income to a United States generally
 4-63 accepted accounting principles (GAAP) basis; or

4-64 (C) with the permission of the commissioner,
 4-65 audited International Financial Reporting Standards (IFRS)
 4-66 statements with reconciliation to United States generally accepted
 4-67 accounting principles (GAAP) certified by an officer of the
 4-68 certified reinsurer;

4-69 (8) actuarial opinion, as filed with the certified

5-1 reinsurer's domiciliary regulator;
 5-2 (9) the liquidation priority of obligations to a
 5-3 ceding insurer in the certified reinsurer's domiciliary
 5-4 jurisdiction in the context of an insolvency proceeding; and
 5-5 (10) a certified reinsurer's participation in a
 5-6 liquidation, reorganization, or similar solvency-related
 5-7 arrangement or proceeding, regardless of the characterization of
 5-8 the arrangement or proceeding, that involves United States ceding
 5-9 insurers.

5-10 (g) The maximum rating that the commissioner may assign a
 5-11 certified reinsurer must correspond with the certified reinsurer's
 5-12 financial strength rating based on the following table:

Rating	Best	S&P	Moody's	Fitch
5-14 Secure - 1	A++	AAA	Aaa	AAA
5-15 Secure - 2	A+	A++, AA,	Aa1, Aa2,	AA+, AA,
5-16		AA-	Aa3	AA-
5-17 Secure - 3	A	A+, A	A1, A2	A+, A
5-18 Secure - 4	A-	A-	A3	A-
5-19 Secure - 5	B++, B+	BBB+, BBB,	Baa1, Baa2,	BBB+, BBB,
5-20		BBB-	Baa3	BBB-
5-21 Vulnerable - 6	B, B-, C++,	BB+, BB,	Ba1, Ba2,	BB+, BB,
5-22	C+, C, C-,	BB-, B+, B,	Ba3, B1,	BB-, B+, B,
5-23	D, E, F	B-, CCC,	B2, B3,	B-, CCC+,
5-24		CC, C, D, R	Caa, Ca, C	CC, CCC-,
5-25				DD

5-26 (h) The commissioner shall use the lowest financial
 5-27 strength rating a certified reinsurer receives from an approved
 5-28 rating agency to establish the maximum rating that may be assigned
 5-29 to the certified reinsurer. A reinsurer that fails to obtain or
 5-30 maintain at least two financial strength ratings from acceptable
 5-31 rating agencies is not eligible for certification.

5-32 (i) A certified reinsurer shall annually file information
 5-33 with the commissioner for the commissioner's evaluation of the
 5-34 certified reinsurer's compliance with the standards under this
 5-35 section.

5-36 (j) For a domestic ceding insurer to qualify for full
 5-37 financial statement credit for reinsurance ceded to a certified
 5-38 reinsurer, the certified reinsurer must maintain security:

5-39 (1) in a form acceptable to the commissioner and
 5-40 consistent with the insurance laws of this state; or

5-41 (2) in a multibeneficiary trust in accordance with
 5-42 Subchapter D, except as otherwise provided.

5-43 (k) If a certified reinsurer maintains a trust under
 5-44 Subchapter D to secure its obligations, and chooses to secure its
 5-45 obligations incurred as a certified reinsurer with a
 5-46 multibeneficiary trust, the certified reinsurer shall maintain
 5-47 separate trust accounts for the obligations incurred under
 5-48 reinsurance agreements the certified reinsurer issued or renewed
 5-49 with reduced security as permitted by this section or comparable
 5-50 laws of other United States jurisdictions and for its obligations
 5-51 subject to Subchapter D. It is a condition to the grant of
 5-52 certification under Section 493.1033 that the certified reinsurer
 5-53 has bound itself, by the language of the trust agreement and
 5-54 agreement with the insurance commissioner or other chief insurance
 5-55 regulatory official with principal regulatory oversight over each
 5-56 trust account, to fund, on termination of the trust account, out of
 5-57 the remaining surplus of the trust any deficiency of any other trust
 5-58 account described by this subsection.

5-59 (l) The minimum trusteed surplus requirements provided in
 5-60 Subchapter D do not apply to a multibeneficiary trust described by
 5-61 this section, except that the trust shall maintain a minimum
 5-62 trusteed surplus of \$10 million.

5-63 (m) With respect to obligations incurred by a certified
 5-64 reinsurer under this section, if the security is insufficient, the
 5-65 commissioner:

5-66 (1) shall reduce the allowable credit by an amount
 5-67 proportionate to the deficiency; and

5-68 (2) may impose further reductions in allowable credit
 5-69 on finding that there is a material risk that the certified

6-1 reinsurer's obligations will not be paid in full when due.

6-2 (n) For purposes of this section, a reinsurer whose
6-3 certification has been revoked, suspended, or voluntarily
6-4 surrendered or whose certification status has become inactive for
6-5 any reason shall be treated as a reinsurer required to secure 100
6-6 percent of its obligations, except that if the commissioner
6-7 continues to assign to the reinsurer a higher financial strength
6-8 rating as permitted by this section, the security requirement does
6-9 not apply to a reinsurer whose certification has been suspended or
6-10 whose certification status has become inactive.

6-11 Sec. 493.1037. CERTIFICATION BY OTHER STATES. If an
6-12 applicant for certification has been certified as a reinsurer in
6-13 another state by the commissioner of insurance of that state:

6-14 (1) the commissioner may make a determination to use
6-15 the other state's certification and the financial strength rating
6-16 assigned by that state; and

6-17 (2) if the commissioner makes the determination
6-18 authorized by Subdivision (1), the applicant shall be considered to
6-19 be a certified reinsurer in this state.

6-20 Sec. 493.1038. SUSPENSION OR REVOCATION OF ACCREDITATION OR
6-21 CERTIFICATION; INACTIVE STATUS. (a) A certified reinsurer that
6-22 ceases to assume new business in this state may request to maintain
6-23 its certification in inactive status to continue to qualify for a
6-24 reduction in security for in-force business. An inactive certified
6-25 reinsurer shall continue to comply with all applicable requirements
6-26 of this section, and the commissioner shall assign a financial
6-27 strength rating that takes into account, if relevant, the reasons
6-28 the reinsurer is not assuming new business.

6-29 (b) If an accredited or certified reinsurer ceases to meet
6-30 the requirements for accreditation or certification, the
6-31 commissioner may, after notice and opportunity for hearing, suspend
6-32 or revoke the reinsurer's accreditation or certification. A
6-33 suspension or revocation may not take effect until after the date of
6-34 the commissioner's order on the hearing, unless:

6-35 (1) the reinsurer waives its right to hearing;

6-36 (2) the commissioner's order is based on regulatory
6-37 action by the reinsurer's domiciliary jurisdiction or the voluntary
6-38 surrender or termination of the reinsurer's eligibility to transact
6-39 insurance or reinsurance business in its domiciliary jurisdiction
6-40 or in the primary certifying state of the reinsurer under this
6-41 section; or

6-42 (3) the commissioner finds that an emergency requires
6-43 immediate action and a court of competent jurisdiction has not
6-44 stayed the commissioner's action.

6-45 (c) While a reinsurer's accreditation or certification is
6-46 suspended, a reinsurance contract issued or renewed after the
6-47 effective date of the suspension does not qualify for credit except
6-48 to the extent that the reinsurer's obligations under the contract
6-49 are secured in accordance with Subchapter D.

6-50 (d) If a reinsurer's accreditation or certification is
6-51 revoked, credit for reinsurance may not be granted after the
6-52 effective date of the revocation except to the extent that the
6-53 reinsurer's obligations under the contract are secured in
6-54 accordance with Section 493.1036 or Subchapter D.

6-55 Sec. 493.1039. CONCENTRATION RISK. (a) A ceding insurer
6-56 shall manage its reinsurance recoverable proportionate to its book
6-57 of business. A domestic ceding insurer shall notify the
6-58 commissioner not later than the 30th day after the date reinsurance
6-59 recoverable from any single assuming insurer, or group of
6-60 affiliated assuming insurers, exceeds or is likely to exceed 50
6-61 percent of the domestic ceding insurer's last reported surplus to
6-62 policyholders. The notification shall demonstrate that the
6-63 exposure is safely managed by the domestic ceding insurer.

6-64 (b) A ceding insurer shall diversify its reinsurance
6-65 program. A domestic ceding insurer shall notify the commissioner
6-66 not later than the 30th day after the date the insurer cedes to any
6-67 single assuming insurer, or group of affiliated assuming insurers,
6-68 an amount that exceeds or is likely to exceed 20 percent of the
6-69 ceding insurer's gross written premium in the prior calendar year.

7-1 The notification shall demonstrate that the exposure is safely
 7-2 managed by the domestic ceding insurer.

7-3 SECTION 1.06. Section 493.151, Insurance Code, is amended
 7-4 to read as follows:

7-5 Sec. 493.151. APPLICABILITY OF SUBCHAPTER. This subchapter
 7-6 applies to:

7-7 (1) a trust that is used to qualify for a reinsurance
 7-8 credit under Section 493.102(a)(3) and as described by Sections
 7-9 493.1036(k) and (l); and

7-10 (2) ~~the~~ the assuming insurer that maintains the trust
 7-11 fund.

7-12 SECTION 1.07. Section 493.152, Insurance Code, is amended
 7-13 by amending Subsection (a) and adding Subsection (a-1) to read as
 7-14 follows:

7-15 (a) If the assuming insurer is a single insurer, the trust
 7-16 must:

7-17 (1) consist of a trustee account representing the
 7-18 assuming insurer's liabilities attributable to business written in
 7-19 the United States; and

7-20 (2) include a trustee surplus of at least \$20
 7-21 million, except after the assuming insurer has permanently
 7-22 discontinued underwriting new business secured by the trust for not
 7-23 less than three calendar years, the insurance commissioner or other
 7-24 chief insurance regulatory official with principal regulatory
 7-25 oversight over the trust may authorize a reduction in the required
 7-26 trustee surplus, but only after a finding, based on an assessment
 7-27 of the risk, that the new required surplus level is adequate for the
 7-28 protection of United States ceding insurers, policyholders, and
 7-29 claimants in light of reasonably foreseeable adverse loss
 7-30 development.

7-31 (a-1) The risk assessment described by Subsection (a)(2)
 7-32 may involve an actuarial review, including an independent analysis
 7-33 of reserves and cash flows, and must consider all material risk
 7-34 factors, including when applicable, the lines of business involved,
 7-35 the stability of the incurred loss estimates, and the effect of the
 7-36 surplus requirements on the assuming insurer's liquidity or
 7-37 solvency. The minimum required trustee surplus may not be reduced
 7-38 to an amount less than 30 percent of the assuming insurer's
 7-39 liabilities attributable to reinsurance ceded by United States
 7-40 ceding insurers.

7-41 SECTION 1.08. Section 493.153, Insurance Code, is amended
 7-42 to read as follows:

7-43 Sec. 493.153. FORM OF TRUST. (a) The trust must be
 7-44 established in a form approved by the commissioner or an insurance
 7-45 commissioner or other chief insurance regulatory official of
 7-46 another state who, under the trust instrument, has principal
 7-47 regulatory oversight over the trust.

7-48 (b) A copy of the trust instrument and any amendment to the
 7-49 trust instrument must be filed with the insurance commissioner or
 7-50 other chief insurance regulatory official of each state in which
 7-51 the ceding insurer beneficiaries of the trust are domiciled.

7-52 SECTION 1.09. Section 493.155, Insurance Code, is amended
 7-53 by amending Subsection (b) and adding Subsections (c), (d), (e),
 7-54 and (f) to read as follows:

7-55 (b) To enable the commissioner to determine the sufficiency
 7-56 of the trust fund under Section 493.102(a)(3) and for purposes of
 7-57 Sections 493.1036(k) and (l), the assuming insurer shall report to
 7-58 the department not later than March 1 of each year information
 7-59 substantially the same as the information required to be reported
 7-60 by an authorized insurer on the National Association of Insurance
 7-61 Commissioners' Annual Statement form.

7-62 (c) Not later than February 28 of each year, if requested by
 7-63 a beneficiary of the trust fund, an assuming insurer that maintains
 7-64 a trust fund shall provide or make available to the assuming
 7-65 insurer's United States ceding insurers or those ceding insurers'
 7-66 assigns and successors in interest the following information:

7-67 (1) a copy of the trust instrument and any amendments
 7-68 to the trust instrument relating to the trust fund;

7-69 (2) a copy of the assuming insurer's annual and

8-1 quarterly financial information, and the insurer's most recent
8-2 audited financial statement provided to the commissioner,
8-3 including any exhibits and schedules;

8-4 (3) any financial information provided to the
8-5 department or commissioner by the assuming insurer, including any
8-6 exhibits and schedules;

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

8-11 (5) a copy of the information required to be reported
8-12 by the trustee under Subsection (a).

8-13 (d) If requested by a ceding insurer, the assuming insurer
8-14 shall provide, in addition to the information under Subsection (c),
8-15 a certification that:

8-16 (1) discloses the financial information provided to
8-17 the commissioner relating to reinsurance liabilities attributable
8-18 to the ceding insurer; and

8-19 (2) certifies that the amount of security held in
8-20 trust on behalf of the ceding insurer is at least equal to those
8-21 amounts as reflected in the report to the commissioner under
8-22 Subsection (a).

8-23 (e) The assuming insurer shall also provide, if requested by
8-24 the ceding insurer, a certification that the trust, in aggregate:

8-25 (1) consists of sufficient assets to support the
8-26 assuming insurer's trust obligations under applicable state laws
8-27 and regulations; and

8-28 (2) includes a trusteed surplus of at least \$20
8-29 million.

8-30 (f) An assuming insurer may decline to release trade secrets
8-31 or commercially sensitive information to a ceding insurer.

8-32 SECTION 1.10. Section 493.156(a), Insurance Code, is
8-33 amended to read as follows:

8-34 (a) A ceding insurer may not be allowed credit under Section
8-35 493.102(a)(3) for reinsurance ceded to an assuming insurer that is
8-36 not authorized, [~~or~~] accredited, or certified to engage in the
8-37 business of insurance or reinsurance in this state unless the
8-38 assuming insurer agrees in the reinsurance contract:

8-39 (1) that, if the assuming insurer fails to perform the
8-40 assuming insurer's obligations under the reinsurance contract, the
8-41 assuming insurer, at the request of the ceding insurer, will:

8-42 (A) submit to the jurisdiction of a court in any
8-43 state of the United States;

8-44 (B) comply with all requirements necessary to
8-45 give the court jurisdiction; and

8-46 (C) abide by the final decision of that court or,
8-47 if the court's decision is appealed, of the appellate court; and

8-48 (2) to designate the commissioner or an attorney as an
8-49 agent for service of process in any action, suit, or proceeding
8-50 instituted by or on behalf of the ceding insurer.

8-51 SECTION 1.11. Subchapter D, Chapter 493, Insurance Code, is
8-52 amended by adding Section 493.1561 to read as follows:

8-53 Sec. 493.1561. CERTAIN TRUSTEED ASSUMING REINSURERS;
8-54 REQUIREMENTS FOR TRUST AGREEMENT. (a) In this section,
8-55 "commissioner" means the insurance commissioner or other chief
8-56 insurance regulatory official with principal regulatory oversight
8-57 over the trust.

8-58 (b) If the assuming insurer does not meet the requirements
8-59 of Section 493.102(a)(1) or (2), the credit permitted by Section
8-60 493.102(a)(3) or (4) may not be allowed unless the assuming insurer
8-61 agrees in the trust agreement that:

8-62 (1) notwithstanding any other provisions in the trust
8-63 agreement, the trustee shall comply with an order of the
8-64 commissioner or a court ordering the trustee to transfer to the
8-65 commissioner all assets of the trust fund if:

8-66 (A) the trust fund is inadequate because the
8-67 trust fund contains an amount that is less than the amount required
8-68 by this subchapter; or

8-69 (B) the grantor of the trust has been declared

9-1 insolvent or placed into receivership, rehabilitation, or
9-2 liquidation or a similar proceeding under the laws of the grantor's
9-3 domiciliary state or country;

9-4 (2) claims in a proceeding described by Subdivision
9-5 (1)(B) must be filed with the commissioner;

9-6 (3) the commissioner shall value the claims described
9-7 by Subdivision (2) and distribute the assets of the trust under the
9-8 laws of the trust's domiciliary state applicable to the liquidation
9-9 of a domestic insurance company;

9-10 (4) if the commissioner determines that all or part of
9-11 the trust assets are unnecessary to satisfy the claims of the
9-12 grantor's ceding insurers domiciled in the United States, the
9-13 commissioner shall return those unnecessary assets to the trustee
9-14 for distribution in accordance with the trust agreement; and

9-15 (5) the grantor waives any right available under
9-16 federal or state law that is inconsistent with this section.

9-17 SECTION 1.12. The following provisions are repealed:

- 9-18 (1) Chapter 492, Insurance Code; and
- 9-19 (2) Section 493.002(b), Insurance Code.

9-20 ARTICLE 2. CONFORMING AMENDMENTS

9-21 SECTION 2.01. Section 36.002, Insurance Code, is amended to
9-22 read as follows:

9-23 Sec. 36.002. ADDITIONAL RULEMAKING AUTHORITY. The
9-24 commissioner may adopt reasonable rules that are:

9-25 (1) necessary to effect the purposes of a provision
9-26 of:

- 9-27 (A) Subchapter B, Chapter 5;
- 9-28 (B) Subchapter C, Chapter 1806;
- 9-29 (C) Subchapter A, Chapter 2301;
- 9-30 (D) Chapter 251, as that chapter relates to
9-31 casualty insurance and fidelity, guaranty, and surety bond
9-32 insurance;

- 9-33 (E) Chapter 253;
- 9-34 (F) Chapter 2008, 2251, or 2252; or
- 9-35 (G) Subtitle B, Title 10; or

9-36 (2) appropriate to accomplish the purposes of a
9-37 provision of:

9-38 (A) Section 37.051(a), 403.002, [~~492.051(b) or~~
9-39 ~~(c)~~], 501.159, 941.003(b)(1) or (c), or 942.003(b)(1) or (c);

9-40 (B) Subchapter H, Chapter 544;

9-41 (C) Chapter 251, as that chapter relates to:
9-42 (i) automobile insurance;
9-43 (ii) casualty insurance and fidelity,
9-44 guaranty, and surety bond insurance;
9-45 (iii) fire insurance and allied lines;
9-46 (iv) workers' compensation insurance; or
9-47 (v) aircraft insurance;

9-48 (D) Chapter 5, 252, 253, 254, 255, 256, 426, 493,
9-49 494, 1804, 1805, 1806, 2171, 6001, 6002, or 6003;

9-50 (E) Subtitle B, C, D, E, F, H, or I, Title 10;

9-51 (F) Section 417.008, Government Code; or

9-52 (G) Chapter 2154, Occupations Code.

9-53 SECTION 2.02. Section 422.005(a), Insurance Code, is
9-54 amended to read as follows:

9-55 (a) This chapter does not apply to:

9-56 (1) variable contracts for which separate accounts are
9-57 required to be maintained;

9-58 (2) a reinsurance agreement or any trust account
9-59 related to the reinsurance agreement if the agreement and trust
9-60 account meet the requirements of Chapter [~~492 or~~] 493;

9-61 (3) an assessment-as-needed company or insurance
9-62 coverage written by an assessment-as-needed company;

9-63 (4) an insurer while:

9-64 (A) the insurer is subject to a conservatorship
9-65 order issued by the commissioner; or

9-66 (B) a court-appointed receiver is in charge of
9-67 the insurer's affairs; or

9-68 (5) an insurer's reserve assets that are held,
9-69 deposited, pledged, or otherwise encumbered to secure, offset,

10-1 protect, or meet the insurer's reserve liabilities established in a
10-2 reinsurance agreement under which the insurer reinsures the
10-3 insurance policy liabilities of a ceding insurer if:

10-4 (A) the ceding insurer and the reinsurer are
10-5 authorized to engage in business in this state; and

10-6 (B) in accordance with a written agreement
10-7 between the ceding insurer and the reinsurer, reserve assets
10-8 substantially equal to the reserve liabilities the reinsurer must
10-9 establish on the reinsured business are:

10-10 (i) deposited by or withheld from the
10-11 reinsurer and held in the custody of the ceding insurer, or
10-12 deposited and held in a trust account with a state or national bank
10-13 domiciled in this state, as security for the payment of the
10-14 reinsurer's obligations under the reinsurance agreement;

10-15 (ii) held subject to withdrawal by the
10-16 ceding insurer; and

10-17 (iii) held under the separate or joint
10-18 control of the ceding insurer.

10-19 SECTION 2.03. Section 841.002, Insurance Code, is amended
10-20 to read as follows:

10-21 Sec. 841.002. APPLICABILITY OF CHAPTER AND OTHER LAW.
10-22 Except as otherwise expressly provided by this code, each insurance
10-23 company incorporated or engaging in business in this state as a life
10-24 insurance company, an accident insurance company, a life and
10-25 accident insurance company, a health and accident insurance
10-26 company, or a life, health, and accident insurance company is
10-27 subject to:

10-28 (1) this chapter;

10-29 (2) Chapter 3;

10-30 (3) Chapters 425 and 493 [492];

10-31 (4) Title 7;

10-32 (5) Sections 1202.051, 1204.151, 1204.153, and
10-33 1204.154;

10-34 (6) Subchapter A, Chapter 1202, Subchapters A and F,
10-35 Chapter 1204, Subchapter A, Chapter 1273, Subchapters A, B, and D,
10-36 Chapter 1355, and Subchapter A, Chapter 1366;

10-37 (7) Subchapter A, Chapter 1507;

10-38 (8) Chapters 1203, 1210, 1251-1254, 1301, 1351, 1354,
10-39 1359, 1364, 1368, 1505, [1506,] 1651, 1652, and 1701; and

10-40 (9) Chapter 177, Local Government Code.

10-41 SECTION 2.04. Section 841.257, Insurance Code, is amended
10-42 to read as follows:

10-43 Sec. 841.257. KINDS OF BUSINESS LIMITED. An insurance
10-44 company authorized to engage in the business of insurance under
10-45 this chapter or in accordance with Section 982.051 may not accept a
10-46 risk or write an insurance policy in this state or any other state
10-47 or country other than:

10-48 (1) a life, accident, or health insurance policy;

10-49 (2) reinsurance under [~~Sections 492.051(b) and (c) or~~
10-50 Chapter 493 by a life insurance company authorized to engage in the
10-51 business of insurance in this state; or

10-52 (3) reinsurance under Chapter 494 by a domestic
10-53 insurance company.

10-54 SECTION 2.05. Section 841.402(10), Insurance Code, is
10-55 amended to read as follows:

10-56 (10) "Letter of credit" means a clean, unconditional,
10-57 irrevocable letter of credit issued or confirmed by a qualified
10-58 United States financial institution, as defined by Section
10-59 493.104(b)(2)(C) [~~492.104(b)(2)(C)~~].

10-60 SECTION 2.06. Section 841.409(c), Insurance Code, is
10-61 amended to read as follows:

10-62 (c) A limited purpose subsidiary life insurance company
10-63 organized under this subchapter is considered to be licensed to
10-64 transact the business of reinsurance for the purposes of Section
10-65 493.051 [~~492.051~~], but may only reinsure risks of the company's
10-66 affiliated companies.

10-67 SECTION 2.07. Section 841.412(b), Insurance Code, is
10-68 amended to read as follows:

10-69 (b) Subject to compliance with Subsection (a) and

11-1 notwithstanding Chapter 425, a limited purpose subsidiary life
 11-2 insurance company may reduce the amount of the company's excess
 11-3 reserves on account of:

- 11-4 (1) reinsurance that complies with Chapter 493 [492];
- 11-5 (2) a letter of credit that complies with Section
- 11-6 493.104(b)(2)(C) [~~492.104(b)(2)(C)~~]; or
- 11-7 (3) guaranties from a holding company or an affiliated
- 11-8 company as provided by Section 841.417.

11-9 SECTION 2.08. Sections 841.413(b) and (c), Insurance Code,
 11-10 are amended to read as follows:

11-11 (b) Unless otherwise approved in advance by the
 11-12 commissioner, a limited purpose subsidiary life insurance company
 11-13 may not assume or retain exposure to reinsurance losses for the
 11-14 company's own account that are not funded by:

- 11-15 (1) premium and other amounts payable by the ceding
- 11-16 insurer to the limited purpose subsidiary life insurance company
- 11-17 under the reinsurance contract, or any return on the investment of
- 11-18 the premiums or other amounts;
- 11-19 (2) letters of credit that qualify under Section
- 11-20 493.104(b)(2)(C) [~~492.104(b)(2)(C)~~]; or
- 11-21 (3) guaranties of a holding company or an affiliated
- 11-22 company as provided by Section 841.417.

11-23 (c) A limited purpose subsidiary life insurance company may
 11-24 cede risks assumed under a reinsurance contract to one or more
 11-25 reinsurers through the purchase of reinsurance, subject to the
 11-26 prior approval of the commissioner. The commissioner may approve a
 11-27 reinsurance contract under this subsection if the commissioner
 11-28 finds that:

- 11-29 (1) the proposed reinsurance complies with Chapter 493
- 11-30 [492];
- 11-31 (2) the proposed reinsurer has sufficient liquidity,
- 11-32 admitted assets, and policyholder surplus to support the
- 11-33 liabilities assumed under the reinsurance contract; and
- 11-34 (3) the proposed reinsurance contract would not result
- 11-35 in a hazardous financial condition for the limited purpose
- 11-36 subsidiary life insurance company.

11-37 SECTION 2.09. Section 862.101(f), Insurance Code, is
 11-38 amended to read as follows:

11-39 (f) Reinsurance that is required or permitted by this
 11-40 section must comply with:

- 11-41 (1) Subchapter A, Chapter 491; and
- 11-42 (2) [~~Sections 492.051(b) and (c), and~~
- 11-43 [~~3~~] Chapter 493.

11-44 SECTION 2.10. Section 884.002(c), Insurance Code, is
 11-45 amended to read as follows:

11-46 (c) The following provisions of this code apply to a
 11-47 stipulated premium company:

- 11-48 (1) Article 21.47;
- 11-49 (2) Section 38.001;
- 11-50 (3) Chapter 86;
- 11-51 (4) Subchapter A, Chapter 401;
- 11-52 (5) Sections 401.051, 401.052, 401.054-401.062,
- 11-53 401.151, 401.152, 401.155, and 401.156;
- 11-54 (6) Sections 403.001, 403.052, and 403.102;
- 11-55 (7) Subchapter A, Chapter 404;
- 11-56 (8) Section 421.001;
- 11-57 (9) Subchapter D, Chapter 425;
- 11-58 (10) Chapter 443;
- 11-59 (11) Chapter 493 [492], other than Section 493.051(b)
- 11-60 [~~Sections 492.051(b) and (c)~~];
- 11-61 (12) Chapter 541;
- 11-62 (13) Sections 801.001-801.002;
- 11-63 (14) Sections 801.051-801.055;
- 11-64 (15) Section 801.057;
- 11-65 (16) Sections 801.101-801.102;
- 11-66 (17) Subchapter A, Chapter 821;
- 11-67 (18) Chapter 824;
- 11-68 (19) Chapter 828;
- 11-69 (20) Section 841.251;

- 12-1 (21) Section 841.259;
 12-2 (22) Section 841.261;
 12-3 (23) Section 841.703; and
 12-4 (24) Chapter 4152.

12-5 SECTION 2.11. Section 884.402, Insurance Code, is amended
 12-6 to read as follows:

12-7 Sec. 884.402. ADDITIONAL COVERAGE. A stipulated premium
 12-8 company that, at the time it begins to issue coverages under this
 12-9 subchapter, possesses the amounts of capital and unencumbered
 12-10 surplus equal to or greater than the corresponding amounts required
 12-11 for organization of a life and health company under Sections
 12-12 841.052, 841.054, 841.204, 841.205, 841.301, and 841.302 may,
 12-13 subject to Section 884.403:

12-14 (1) issue any kind of life insurance coverage
 12-15 authorized by Chapter 3, 841, or 1701 or Title 7;

12-16 (2) issue any kind of health or accident insurance
 12-17 coverage authorized by:

12-18 (A) Title 7;

12-19 (B) Chapter 3, 704, 841, 846, 982, 1201, 1202,
 12-20 1203, 1210, 1251, 1252, 1253, 1254, 1301, 1351, 1354, 1359, 1364,
 12-21 1368, 1501, 1504, 1505, [1506,] 1552, 1575, 1576, 1579, 1581, 1625,
 12-22 1651, 1652, or 1701;

12-23 (C) Chapter 493 [492], other than Section
 12-24 493.051(b) [~~Sections 492.051(b) and (c)~~];

12-25 (D) Subchapter B, Chapter 38, Subchapter D,
 12-26 Chapter 425, Subchapter A or F, Chapter 1204, Subchapter A, Chapter
 12-27 1273, Subchapter A, B, or D, Chapter 1355, Subchapter A, Chapter
 12-28 1366, or Subchapter A, Chapter 1507;

12-29 (E) Section 1204.151, 1204.153, 1204.154, or
 12-30 1451.051; or

12-31 (F) Chapter 177, Local Government Code; or

12-32 (3) issue life insurance coverage through policies
 12-33 without cash surrender values or nonforfeiture values and that
 12-34 exceed \$10,000 on one life.

12-35 SECTION 2.12. Section 964.052(d), Insurance Code, is
 12-36 amended to read as follows:

12-37 (d) A captive insurance company may take credit for reserves
 12-38 on risks or portions of risks ceded to reinsurers under [~~Subchapter~~
 12-39 ~~C, Chapter 492, and~~ Subchapter C, Chapter 493.

12-40 SECTION 2.13. Section 1807.002(a), Insurance Code, is
 12-41 amended to read as follows:

12-42 (a) The following provisions do not apply to marine
 12-43 insurance:

12-44 (1) Sections 36.002, 37.051, 403.002, [~~492.051,~~] and
 12-45 501.159;

12-46 (2) Subchapter H, Chapter 544;

12-47 (3) Chapters 5, 252, 253, 493, 494, 1804, 1805, 1806,
 12-48 and 2171; and

12-49 (4) Subtitles B, C, D, E, F, H, and I.

12-50 SECTION 2.14. Section 4152.152, Insurance Code, is amended
 12-51 to read as follows:

12-52 Sec. 4152.152. PLACEMENT OF REINSURANCE WITH UNAUTHORIZED
 12-53 REINSURER. Unless the ceding insurer releases the broker in
 12-54 writing from the broker's obligations under this section, a broker
 12-55 who places reinsurance on behalf of an authorized ceding insurer
 12-56 with a reinsurer that is not authorized, accredited, or trusted in
 12-57 this state under Chapter [~~492 or~~] 493 shall:

12-58 (1) exercise due diligence in inquiring into the
 12-59 financial condition of the reinsurer;

12-60 (2) disclose to the ceding insurer the broker's
 12-61 findings in connection with the inquiry under Subdivision (1); and

12-62 (3) make available to the ceding insurer a copy of the
 12-63 current financial statement of the reinsurer.

12-64 SECTION 2.15. Section 4152.214(a), Insurance Code, is
 12-65 amended to read as follows:

12-66 (a) Unless the ceding insurer releases the manager in
 12-67 writing from the manager's obligations under this section, a
 12-68 manager who places reinsurance on behalf of an authorized ceding
 12-69 insurer with a reinsurer that is not authorized, accredited, or

13-1 trustee in this state under Chapter ~~[492 or]~~ 493 shall:

13-2 (1) exercise due diligence in inquiring into the

13-3 financial condition of the reinsurer;

13-4 (2) disclose to the ceding insurer the manager's

13-5 findings in connection with the inquiry under Subdivision (1); and

13-6 (3) make available to the ceding insurer a copy of the

13-7 current financial statement of the reinsurer.

ARTICLE 3. TRANSITION; EFFECTIVE DATE

13-9 SECTION 3.01. The changes in law made by this Act apply only

13-10 to a reinsurance contract that is entered into or renewed on or

13-11 after January 1, 2018. A reinsurance contract that is entered into

13-12 or renewed before January 1, 2018, is governed by the law as it

13-13 existed immediately before the effective date of this Act, and that

13-14 law is continued in effect for that purpose.

13-15 SECTION 3.02. This Act takes effect September 1, 2017.

13-16

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