

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. SHORT TITLE

6 SECTION 1.01. This Act shall be known as The Mattax Act.

7 ARTICLE 2. AUTHORIZED REINSURANCE; CREDIT AND ACCOUNTING FOR  
8 REINSURANCE

9 SECTION 2.01. The chapter heading to Chapter 493, Insurance  
10 Code, is amended to read as follows:

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

13 SECTION 2.02. Section 493.002, Insurance Code, is amended  
14 by amending Subsection (a) and adding Subsection (a-1) to read as  
15 follows:

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

- 18 (1) a stock or mutual property and casualty insurance  
19 company;
- 20 (2) a Mexican casualty insurance company;
- 21 (3) a Lloyd's plan;
- 22 (4) a reciprocal or interinsurance exchange;
- 23 (5) a nonprofit legal service corporation;
- 24 (6) a county mutual insurance company;

- 1           (7) a farm mutual insurance company;  
2           (8) a risk retention group; ~~[and]~~  
3           (9) any insurer writing a line of insurance regulated  
4 by Title 10;

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

7           (A) a stock or mutual life, health, or accident  
8 insurance company;

9           (B) a fraternal benefit society; and

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

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

15           (a-1) A county mutual insurance company operating under  
16 Section 912.056(d) that does not directly or indirectly write or  
17 assume insurance in any manner in another state may not be allowed  
18 credit under Section 493.1033 for reinsurance ceded to a reinsurer  
19 qualifying under Sections 493.1033 and 493.1034 and is not subject  
20 to Section 493.1039. This subsection does not prohibit a county  
21 mutual insurance company described by this subsection from ceding  
22 reinsurance to reinsurers qualifying under Sections 493.1033 and  
23 493.1034 under other provisions of this chapter.

24           SECTION 2.03. Section 493.051(b), Insurance Code, is  
25 amended to read as follows:

26           (b) An insurer authorized to engage in business in this  
27 state ~~[that writes any line of insurance regulated by Title 10]~~ may

1 provide reinsurance under this chapter on any line of insurance in  
2 which the insurer is authorized to engage in this state [~~while the~~  
3 ~~insurer is in compliance with law~~].

4 SECTION 2.04. Section 493.102(a), Insurance Code, is  
5 amended to read as follows:

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

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

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

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

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

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

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

24 SECTION 2.05. Subchapter C, Chapter 493, Insurance Code, is  
25 amended by adding Sections 493.1033, 493.1034, 493.1035, 493.1036,  
26 493.1037, 493.1038, and 493.1039 to read as follows:

27 Sec. 493.1033. CREDIT ALLOWED FOR CERTAIN CERTIFIED

1 REINSURERS. (a) Credit shall be allowed when the reinsurance is  
2 ceded to an assuming insurer that:

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

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

7 (b) To be eligible for certification, the assuming insurer  
8 must:

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

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

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

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

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

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

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

1           (8) satisfy any other requirements for certification  
2 required by the commissioner by rule.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26       Sec. 493.1036. REQUIREMENTS FOR CERTIFIED REINSURER.

27       (a) The commissioner shall assign a rating to each certified

1 reinsurer after giving due consideration to the financial strength  
2 ratings assigned by rating agencies recognized by the commissioner  
3 by rule.

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

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

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

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

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

18 (e) If a certified reinsurer maintains a trust under  
19 Subchapter D to secure its obligations, and chooses to secure its  
20 obligations incurred as a certified reinsurer with a  
21 multibeneficiary trust, the certified reinsurer shall maintain  
22 separate trust accounts for the obligations incurred under  
23 reinsurance agreements the certified reinsurer issued or renewed  
24 with reduced security as permitted by this section or comparable  
25 laws of other United States jurisdictions and for its obligations  
26 subject to Subchapter D. It is a condition to the grant of  
27 certification under Section 493.1033 that the certified reinsurer

1 has bound itself, by the language of the trust agreement and  
2 agreement with the insurance commissioner or other chief insurance  
3 regulatory official with principal regulatory oversight over each  
4 trust account, to fund, on termination of the trust account, out of  
5 the remaining surplus of the trust any deficiency of any other trust  
6 account described by this subsection.

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

11 (g) With respect to obligations incurred by a certified  
12 reinsurer under this section, if the security is insufficient, the  
13 commissioner:

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

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

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

1       Sec. 493.1037. CERTIFICATION BY NATIONAL ASSOCIATION OF  
2 INSURANCE COMMISSIONERS. If an applicant for certification has  
3 been certified as a reinsurer in a National Association of  
4 Insurance Commissioners accredited jurisdiction:

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

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

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

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

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

27           (2) the commissioner's order is based on regulatory

1 action by the reinsurer's domiciliary jurisdiction or the voluntary  
2 surrender or termination of the reinsurer's eligibility to transact  
3 insurance or reinsurance business in its domiciliary jurisdiction  
4 or in the primary certifying state of the reinsurer under this  
5 section; or

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

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

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

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

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

9        SECTION 2.06. Section 493.151, Insurance Code, is amended  
10 to read as follows:

11        Sec. 493.151. APPLICABILITY OF SUBCHAPTER. This subchapter  
12 applies to:

13            (1) a trust that is used to qualify for a reinsurance  
14 credit under Section 493.102(a)(3) and as described by Sections  
15 493.1036(e) and (f); and

16            (2) ~~to~~ the assuming insurer that maintains the trust  
17 fund.

18        SECTION 2.07. Section 493.152, Insurance Code, is amended  
19 by amending Subsection (a) and adding Subsection (a-1) to read as  
20 follows:

21        (a) If the assuming insurer is a single insurer, the trust  
22 must:

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

26            (2) include a trusteed surplus of at least \$20  
27 million, except after the assuming insurer has permanently

1 discontinued underwriting new business secured by the trust for not  
2 less than three calendar years, the insurance commissioner or other  
3 chief insurance regulatory official with principal regulatory  
4 oversight over the trust may authorize a reduction in the required  
5 trusteed surplus, but only after a finding, based on an assessment  
6 of the risk, that the new required surplus level is adequate for the  
7 protection of United States ceding insurers, policyholders, and  
8 claimants in light of reasonably foreseeable adverse loss  
9 development.

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

20 SECTION 2.08. Section 493.153, Insurance Code, is amended  
21 to read as follows:

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

27 (b) A copy of the trust instrument and any amendment to the

1 trust instrument must be filed with the insurance commissioner or  
2 other chief insurance regulatory official of each state in which  
3 the ceding insurer beneficiaries of the trust are domiciled.

4 SECTION 2.09. Section 493.155, Insurance Code, is amended  
5 by amending Subsection (b) and adding Subsections (c), (d), (e),  
6 and (f) to read as follows:

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

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

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

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

25 (3) any financial information provided to the  
26 department or commissioner by the assuming insurer, including any  
27 exhibits and schedules;

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

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

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

10           (1) discloses the financial information provided to  
11 the commissioner relating to reinsurance liabilities attributable  
12 to the ceding insurer; and

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

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

19           (1) consists of sufficient assets to support the  
20 assuming insurer's trust obligations under applicable state laws  
21 and regulations; and

22           (2) includes a trusteed surplus of at least \$20  
23 million.

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

26           SECTION 2.10. Section 493.156(a), Insurance Code, is  
27 amended to read as follows:

1 (a) A ceding insurer may not be allowed credit under Section  
2 493.102(a)(3) for reinsurance ceded to an assuming insurer that is  
3 not authorized, ~~[or]~~ accredited, or certified to engage in the  
4 business of insurance or reinsurance in this state unless the  
5 assuming insurer agrees in the reinsurance contract:

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

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

11 (B) comply with all requirements necessary to  
12 give the court jurisdiction; and

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

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

18 SECTION 2.11. Subchapter D, Chapter 493, Insurance Code, is  
19 amended by adding Section 493.1561 to read as follows:

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

25 (b) If the assuming insurer does not meet the requirements  
26 of Section 493.102(a)(1) or (2), the credit permitted by Section  
27 493.102(a)(3) or (4) may not be allowed unless the assuming insurer

1 agrees in the trust agreement that:

2 (1) notwithstanding any other provisions in the trust  
3 agreement, the trustee shall comply with an order of the  
4 commissioner or a court ordering the trustee to transfer to the  
5 commissioner all assets of the trust fund if:

6 (A) the trust fund is inadequate because the  
7 trust fund contains an amount that is less than the amount required  
8 by this subchapter; or

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

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

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

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

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

26 SECTION 2.12. The following provisions are repealed:

27 (1) Chapter 492, Insurance Code; and

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

2           SECTION 2.13. (a) The commissioner of insurance shall  
3 adopt rules to implement Chapter 493, Insurance Code, as amended by  
4 this article. Rules adopted under this section apply only to a  
5 reinsurance contract that is entered into or renewed on or after  
6 January 1, 2018.

7           (b) It is the intent of the legislature that the  
8 commissioner of insurance ensure by rule that no duplicative  
9 reporting requirements are created in the implementation of this  
10 Act.

11                           ARTICLE 3. CONFORMING AMENDMENTS

12           SECTION 3.01. Section 36.002, Insurance Code, is amended to  
13 read as follows:

14           Sec. 36.002. ADDITIONAL RULEMAKING AUTHORITY.        The  
15 commissioner may adopt reasonable rules that are:

16           (1) necessary to effect the purposes of a provision  
17 of:

18                           (A) Subchapter B, Chapter 5;

19                           (B) Subchapter C, Chapter 1806;

20                           (C) Subchapter A, Chapter 2301;

21                           (D) Chapter 251, as that chapter relates to  
22 casualty insurance and fidelity, guaranty, and surety bond  
23 insurance;

24                           (E) Chapter 253;

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

26                           (G) Subtitle B, Title 10; or

27           (2) appropriate to accomplish the purposes of a

1 provision of:

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

4 (B) Subchapter H, Chapter 544;

5 (C) Chapter 251, as that chapter relates to:

6 (i) automobile insurance;

7 (ii) casualty insurance and fidelity,  
8 guaranty, and surety bond insurance;

9 (iii) fire insurance and allied lines;

10 (iv) workers' compensation insurance; or

11 (v) aircraft insurance;

12 (D) Chapter 5, 252, 253, 254, 255, 256, 426, 493,  
13 494, 1804, 1805, 1806, 2171, 6001, 6002, or 6003;

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

15 (F) Section 417.008, Government Code; or

16 (G) Chapter 2154, Occupations Code.

17 SECTION 3.02. Section 422.005(a), Insurance Code, is  
18 amended to read as follows:

19 (a) This chapter does not apply to:

20 (1) variable contracts for which separate accounts are  
21 required to be maintained;

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

25 (3) an assessment-as-needed company or insurance  
26 coverage written by an assessment-as-needed company;

27 (4) an insurer while:

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

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

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

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

12 (B) in accordance with a written agreement  
13 between the ceding insurer and the reinsurer, reserve assets  
14 substantially equal to the reserve liabilities the reinsurer must  
15 establish on the reinsured business are:

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

21 (ii) held subject to withdrawal by the  
22 ceding insurer; and

23 (iii) held under the separate or joint  
24 control of the ceding insurer.

25 SECTION 3.03. Section [841.002](#), Insurance Code, is amended  
26 to read as follows:

27 Sec. 841.002. APPLICABILITY OF CHAPTER AND OTHER LAW.

1 Except as otherwise expressly provided by this code, each insurance  
2 company incorporated or engaging in business in this state as a life  
3 insurance company, an accident insurance company, a life and  
4 accident insurance company, a health and accident insurance  
5 company, or a life, health, and accident insurance company is  
6 subject to:

- 7 (1) this chapter;
- 8 (2) Chapter 3;
- 9 (3) Chapters 425 and 493 [~~492~~];
- 10 (4) Title 7;
- 11 (5) Sections 1202.051, 1204.151, 1204.153, and  
12 1204.154;
- 13 (6) Subchapter A, Chapter 1202, Subchapters A and F,  
14 Chapter 1204, Subchapter A, Chapter 1273, Subchapters A, B, and D,  
15 Chapter 1355, and Subchapter A, Chapter 1366;
- 16 (7) Subchapter A, Chapter 1507;
- 17 (8) Chapters 1203, 1210, 1251-1254, 1301, 1351, 1354,  
18 1359, 1364, 1368, 1505, [~~1506~~] 1651, 1652, and 1701; and
- 19 (9) Chapter 177, Local Government Code.

20 SECTION 3.04. Section 841.257, Insurance Code, is amended  
21 to read as follows:

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

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

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

4           (3) reinsurance under Chapter 494 by a domestic  
5 insurance company.

6           SECTION 3.05. Section 841.402(10), Insurance Code, is  
7 amended to read as follows:

8           (10) "Letter of credit" means a clean, unconditional,  
9 irrevocable letter of credit issued or confirmed by a qualified  
10 United States financial institution, as defined by Section  
11 493.104(b)(2)(C) [~~492.104(b)(2)(C)~~].

12          SECTION 3.06. Section 841.409(c), Insurance Code, is  
13 amended to read as follows:

14          (c) A limited purpose subsidiary life insurance company  
15 organized under this subchapter is considered to be licensed to  
16 transact the business of reinsurance for the purposes of Section  
17 493.051 [~~492.051~~], but may only reinsure risks of the company's  
18 affiliated companies.

19          SECTION 3.07. Section 841.412(b), Insurance Code, is  
20 amended to read as follows:

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

- 25           (1) reinsurance that complies with Chapter 493 [~~492~~];  
26           (2) a letter of credit that complies with Section  
27 493.104(b)(2)(C) [~~492.104(b)(2)(C)~~]; or

1           (3) guaranties from a holding company or an affiliated  
2 company as provided by Section [841.417](#).

3           SECTION 3.08. Sections [841.413](#)(b) and (c), Insurance Code,  
4 are amended to read as follows:

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

9           (1) premium and other amounts payable by the ceding  
10 insurer to the limited purpose subsidiary life insurance company  
11 under the reinsurance contract, or any return on the investment of  
12 the premiums or other amounts;

13           (2) letters of credit that qualify under Section  
14 [493.104](#)(b)(2)(C) [~~[492.104](#)(b)(2)(C)~~]; or

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

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

23           (1) the proposed reinsurance complies with Chapter [493](#)  
24 [~~[492](#)~~];

25           (2) the proposed reinsurer has sufficient liquidity,  
26 admitted assets, and policyholder surplus to support the  
27 liabilities assumed under the reinsurance contract; and

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

4           SECTION 3.09. Section [862.101\(f\)](#), Insurance Code, is  
5 amended to read as follows:

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

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

9           (2) [~~Sections [492.051\(b\)](#) and (c); and~~

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

11           SECTION 3.10. Section [884.002\(c\)](#), Insurance Code, is  
12 amended to read as follows:

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

15           (1) Article 21.47;

16           (2) Section [38.001](#);

17           (3) Chapter [86](#);

18           (4) Subchapter A, Chapter [401](#);

19           (5) Sections [401.051](#), [401.052](#), [401.054-401.062](#),  
20 [401.151](#), [401.152](#), [401.155](#), and [401.156](#);

21           (6) Sections [403.001](#), [403.052](#), and [403.102](#);

22           (7) Subchapter A, Chapter [404](#);

23           (8) Section [421.001](#);

24           (9) Subchapter D, Chapter [425](#);

25           (10) Chapter [443](#);

26           (11) Chapter [493](#) [~~492~~], other than Section [493.051\(b\)](#)  
27 [~~Sections [492.051\(b\)](#) and (c)~~];

- 1 (12) Chapter 541;
- 2 (13) Sections 801.001-801.002;
- 3 (14) Sections 801.051-801.055;
- 4 (15) Section 801.057;
- 5 (16) Sections 801.101-801.102;
- 6 (17) Subchapter A, Chapter 821;
- 7 (18) Chapter 824;
- 8 (19) Chapter 828;
- 9 (20) Section 841.251;
- 10 (21) Section 841.259;
- 11 (22) Section 841.261;
- 12 (23) Section 841.703; and
- 13 (24) Chapter 4152.

14 SECTION 3.11. Section 884.402, Insurance Code, is amended  
15 to read as follows:

16 Sec. 884.402. ADDITIONAL COVERAGE. A stipulated premium  
17 company that, at the time it begins to issue coverages under this  
18 subchapter, possesses the amounts of capital and unencumbered  
19 surplus equal to or greater than the corresponding amounts required  
20 for organization of a life and health company under Sections  
21 841.052, 841.054, 841.204, 841.205, 841.301, and 841.302 may,  
22 subject to Section 884.403:

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

25 (2) issue any kind of health or accident insurance  
26 coverage authorized by:

27 (A) Title 7;

1 (B) Chapter 3, 704, 841, 846, 982, 1201, 1202,  
2 1203, 1210, 1251, 1252, 1253, 1254, 1301, 1351, 1354, 1359, 1364,  
3 1368, 1501, 1504, 1505, [~~1506,~~] 1552, 1575, 1576, 1579, 1581, 1625,  
4 1651, 1652, or 1701;

5 (C) Chapter 493 [~~492~~], other than Section  
6 493.051(b) [~~Sections 492.051(b) and (c)~~];

7 (D) Subchapter B, Chapter 38, Subchapter D,  
8 Chapter 425, Subchapter A or F, Chapter 1204, Subchapter A, Chapter  
9 1273, Subchapter A, B, or D, Chapter 1355, Subchapter A, Chapter  
10 1366, or Subchapter A, Chapter 1507;

11 (E) Section 1204.151, 1204.153, 1204.154, or  
12 1451.051; or

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

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

17 SECTION 3.12. Section 964.052(d), Insurance Code, is  
18 amended to read as follows:

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

22 SECTION 3.13. Section 1807.002(a), Insurance Code, is  
23 amended to read as follows:

24 (a) The following provisions do not apply to marine  
25 insurance:

26 (1) Sections 36.002, 37.051, 403.002, [~~492.051,~~] and  
27 501.159;

1 (2) Subchapter H, Chapter 544;

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

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

5 SECTION 3.14. Section 4152.152, Insurance Code, is amended  
6 to read as follows:

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

13 (1) exercise due diligence in inquiring into the  
14 financial condition of the reinsurer;

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

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

19 SECTION 3.15. Section 4152.214(a), Insurance Code, is  
20 amended to read as follows:

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

26 (1) exercise due diligence in inquiring into the  
27 financial condition of the reinsurer;

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

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

5           ARTICLE 4. TRANSITION; EFFECTIVE DATE

6           SECTION 4.01. The changes in law made by this Act apply only  
7 to a reinsurance contract that is entered into or renewed on or  
8 after January 1, 2018. A reinsurance contract that is entered into  
9 or renewed before January 1, 2018, is governed by the law as it  
10 existed immediately before the effective date of this Act, and that  
11 law is continued in effect for that purpose.

12          SECTION 4.02. This Act takes effect September 1, 2017.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 1070 passed the Senate on April 27, 2017, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 26, 2017, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 1070 passed the House, with amendments, on May 8, 2017, by the following vote: Yeas 145, Nays 0, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor