

## **BILL ANALYSIS**

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S.B. 539  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

S.B. 539 grants discretion to the commissioner of the Texas Department of Insurance to allow domestic insurers to take credit for reinsurance purchased from reinsurers that the commissioner determines meet certain eligibility criteria without the posting of 100 percent collateral as required under current law.

Individuals and businesses typically manage their risks by buying insurance and transferring certain liabilities to insurance companies. Similarly, insurance companies manage their risks by buying reinsurance and transferring certain liabilities to other insurance companies known as reinsurers.

The four types of reinsurers operating in Texas are those: (i) domiciled or headquartered in Texas or another state and licensed by the Texas Department of Insurance (TDI); (ii) domiciled in another state and accredited by TDI; (iii) domiciled outside the U.S. but meeting Texas Insurance Code requirements and having assets in a U.S. trust to cover their obligations (these are commonly referred to as "trusteed" reinsurers); and (iv) all other reinsurers. Texas law requires certain reinsurers to collateralize, or secure, their obligations. Reinsurers licensed or accredited by TDI do not have to provide collateral. Trusteed and all other reinsurers, however, must provide collateral to secure their financial obligations incurred in a reinsurance contract.

Today most reinsurers, including the majority of the world's most prestigious and financially secure reinsurers, are located outside the U.S. In Texas, these financially stable reinsurers must produce large amounts of capital as collateral, reducing the capital they have on hand to support additional reinsurance and/or to invest. At the same time, a financially weaker reinsurer may be exempt from the collateral requirements based solely on its licensing status and location.

Texas' current regulatory framework does not take into account the financial stability of a reinsurer when determining the amount of collateral that must be posted by that reinsurer. Reinsurers not licensed or accredited in Texas must use capital to collateralize their reinsurance obligations. Because this capital is no longer available to support additional insurance sales and/or for other transactions and investments, reinsurers include these opportunity costs in the reinsurance premium they charge to Texas insurance companies. As a result, the costs of regulatory compliance are higher in Texas than in those states that have adopted the new model, and these costs are passed on to Texas consumers. This bill would ensure that the collateral required to cover a risk accurately reflects the financial condition of the reinsurer and makes more capital available for additional insurance sales and for infusion into the state's economy.

Most importantly, the new Federal Insurance Office created by the Dodd-Frank Wall Street Reform and Consumer Protection Act has stated its intent to preempt state's authority to regulate reinsurance requirements because an insufficient number of states have modernized their requirements. If Texas can craft its own version of reinsurance accounting modernization, it is likely the state can stave off federal preemption and implement a Texas-specific version of the modernized process to best meet the needs of Texans and Texas-based companies.

As proposed, S.B. 539 amends current law relating to reinsurance financial statement credit and accounting.

## **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 2 (Section 492.1033, Insurance Code) and SECTION 9 (Section 493.1033, Insurance Code), of this bill.

## **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 492.102(a), Insurance Code, as follows:

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

- (1) Makes no change to this subdivision;
- (2)-(3) Makes nonsubstantive changes to these subdivisions; or
- (4) is determined by the commissioner of insurance (commissioner) to meet the requirements of Sections 492.1033-492.1038, as applicable.

SECTION 2. Amends Subchapter C, Chapter 492, Insurance Code, by adding Sections 492.1033, 492.1034, 492.1035, 492.1036, 492.1037, 492.1038, and 492.1039, as follows:

Sec. 492.1033. CREDIT ALLOWED FOR CERTAIN CERTIFIED REINSURERS. (a) Requires that credit be allowed when the reinsurance is ceded to an assuming insurer that is certified by the commissioner as a reinsurer in this state, and secures its obligations in accordance with the requirements of this section and Sections 492.1034-492.1038.

(b) Requires that the assuming insurer, to be eligible for certification:

- (1) be domiciled and licensed to transact insurance or reinsurance in a jurisdiction listed as qualified on the list published by the commissioner under Section 492.1035;
- (2) maintain minimum capital and surplus in an amount required by the commissioner by rule;
- (3) maintain a financial strength rating from not fewer than two rating agencies determined to be acceptable in accordance with rules adopted by the commissioner;
- (4) agree to submit to the jurisdiction of any court of competent jurisdiction in any state of the United States;
- (5) appoint the commissioner as its agent for service of process in this state;
- (6) provide security for 100 percent of the assuming insurer's liabilities for reinsurance ceded by United States ceding insurers if the assuming insurer resists enforcement of a final judgment of a court of the United States;
- (7) meet application information filing requirements as established by the commissioner by rule, for the initial application for certification and on an ongoing basis; and
- (8) satisfy any other requirements for certification required by rule adopted by the commissioner.

Sec. 492.1034. CERTAIN ASSOCIATIONS MAY BE CERTIFIED REINSURERS. (a) Authorizes an association that includes incorporated and individual unincorporated

underwriters to be a certified reinsurer under Section 492.1033. Requires the association, to be eligible for certification, to satisfy the requirements of Section 492.1033 and this section.

(b) Sets forth the capital and surplus requirements that the association is required to satisfy.

(c) Prohibits the incorporated members of the association acting as members of the association from being engaged in any business other than underwriting, and provides that such members are subject to the same level of regulation and solvency control by the association's domiciliary regulator as are the unincorporated members.

(d) Requires the association, not later than the 90th day after the date the association's financial statements are due to be filed with the association's domiciliary regulator, to provide to the commissioner an annual certification by the domiciliary regulator of the solvency of each member, or, if such a certification is unavailable, financial statements of each underwriter member of the association, prepared by independent public accountants.

Sec. 492.1035. QUALIFIED JURISDICTIONS. (a) Requires the commissioner to develop and publish a list of qualified jurisdictions in which an assuming insurer is authorized to be licensed and domiciled in order to be considered for certification by the commissioner under Section 492.1033 as a certified insurer. Requires the commissioner, in developing the list, to consider the list of qualified jurisdictions published through the National Association of Insurance Commissioners (NAIC) committee process.

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

(c) Requires a jurisdiction, in order to be qualified, to agree to share information and cooperate with the commissioner with respect to all certified reinsurers doing business in the jurisdiction.

(d) Prohibits a jurisdiction from being recognized as qualified if the commissioner has determined that the jurisdiction does not adequately and promptly enforce final United States judgments and arbitration awards. Authorizes additional factors to be considered in the discretion of the commissioner.

(e) Requires the commissioner, upon approving under this section a jurisdiction as qualified that does not appear on the list of qualified jurisdictions published through the NAIC committee process, to provide documentation in accordance with rules adopted by the commissioner. Requires that the rules include a requirement for a thoroughly documented justification of the approval.

(f) Requires the commissioner to include as a qualified jurisdiction under this section a United States jurisdiction that meets the requirement for accreditation under the NAIC financial standards and accreditation program.

(g) Authorizes the commissioner, if a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, to suspend the reinsurer's certification indefinitely, instead of revoking the certification.

Sec. 492.1036. FINANCIAL REQUIREMENTS FOR CERTIFIED REINSURER. (a) Requires the commissioner to assign a financial strength rating to each certified reinsurer

after considering the financial strength ratings that have been assigned by rating agencies recognized by the commissioner.

(b) Requires the commissioner to publish a list of the ratings assigned under this section for all certified reinsurers.

(c) Requires a certified reinsurer to secure obligations assumed from ceding insurers domiciled in the United States in accordance with the rating assigned by the commissioner under Subsection (a) and in accordance with this section.

(d) Requires the certified reinsurer, for a domestic ceding insurer to qualify for a full financial statement credit for reinsurance ceded to a certified reinsurer, to maintain security in a form acceptable to the commissioner and consistent with the insurance laws of this state or in a multibeneficiary trust in accordance with Subchapter D (Requirements for Trust Credit Allowance), except as otherwise provided.

(e) Requires the certified reinsurer, if such a reinsurer maintains a trust under Subchapter D to secure its obligations and chooses to secure its obligations incurred as a certified reinsurer with a multibeneficiary trust, to maintain separate trust accounts for the obligations incurred under reinsurance agreements the certified reinsurer issued or renewed with reduced security as permitted by this section or comparable laws of other United States jurisdictions and for its obligations subject to Subchapter D. Requires the certified reinsurer, on termination of the trust account, to fund certain deficiencies.

(f) Provides that the minimum trusteed surplus requirements provided in Subchapter D do not apply to a multibeneficiary trust described by this section, except that the trust is required to maintain a minimum trusteed surplus of \$10,000,000.

(g) Provides that, with respect to obligations incurred by a certified reinsurer under this section, if the security is insufficient, the commissioner is required to reduce the allowable credit by an amount proportionate to the deficiency, and is authorized to impose further reductions in allowable credit on finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due.

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

Sec. 492.1037. CERTIFICATION BY NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS. Authorizes the commissioner, if an applicant for certification has been certified as a reinsurer in a NAIC accredited jurisdiction, to defer to the accredited jurisdiction's certification and the financial strength rating assigned by that jurisdiction. Requires that such an applicant be considered to be a certified reinsurer in this state.

Sec. 492.1038. SUSPENSION OR REVOCATION OF ACCREDITATION OR CERTIFICATION; INACTIVE STATUS. (a) Authorizes a certified reinsurer that ceases to assume new business in this state to request to maintain its certification in inactive status to continue to qualify for a reduction in security for in-force business. Requires an inactive certified reinsurer to continue to comply with all applicable requirements of this section, and requires the commissioner to assign a financial strength rating that takes into account, if relevant, the reasons the reinsurer is not assuming new business.

(b) Authorizes the commissioner to, after notice and opportunity for hearing, suspend or revoke the reinsurer's accreditation or certification, if the accredited or certified reinsurer ceases to meet the requirements for accreditation or certification. Prohibits a suspension or revocation from taking effect until after the date of the commissioner's order on the hearing, unless:

(1) the reinsurer waives its right to hearing;

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

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

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

(d) Prohibits credit for reinsurance, if a reinsurer's accreditation or certification is revoked, from being granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the contract are secured in accordance with Section 492.1036 or Subchapter D.

**Sec. 492.1039. CONCENTRATION RISK.** (a) Requires a ceding insurer to manage its reinsurance recoverable proportionate to its book of business. Requires a domestic ceding insurer to notify the commissioner not later than the 30th day after the date reinsurance recoverable from any single assuming insurer, or group of affiliated assuming insurers, exceeds or is likely to exceed 50 percent of the domestic ceding insurer's last reported surplus to policyholders. Requires the notification to demonstrate that the exposure is safely managed by the domestic ceding insurer.

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

**SECTION 3.** Amends Section 492.151, Insurance Code, as follows:

**Sec. 492.151. APPLICABILITY OF SUBCHAPTER.** Provides that this subchapter applies to a trust that is used to qualify for a reinsurance credit under Section 492.102(a)(3) and as described by Sections 492.1036(e) and (f), and the assuming insurer that maintains the trust fund.

**SECTION 4.** Amends Section 492.152, Insurance Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Requires the trust, if the assuming insurer is a single insurer, to:

(1) Makes no change to this subdivision; and

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

(a-1) Authorizes the risk assessment described by Subsection (a)(2) to involve an actuarial review, including an independent analysis of reserves and cash flows, and requires such assessment to consider all material risk factors, including when applicable, the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. Prohibits the minimum required trusteed surplus from being reduced to an amount less than 30 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers.

SECTION 5. Amends Section 492.155(b), Insurance Code, to require the assuming insurer, in order to enable the commissioner to determine the sufficiency of the trust fund under Section 492.102(a)(3) and for purposes of Sections 492.1036(e) and (f), to report to the Texas Department of Insurance (TDI) not later than March 1 of each year information substantially the same as the information required to be reported by an authorized insurer on NAIC's Annual Statement form.

SECTION 6. Amends Section 492.156(a), Insurance Code, to prohibit a ceding insurer from being allowed credit under Section 492.102(a)(3) for reinsurance ceded to an assuming insurer that is not authorized, accredited, or certified to engage in the business of insurance or reinsurance in this state unless the assuming insurer agrees to certain requirements in the reinsurance contract. Sets forth such requirements.

SECTION 7. Amends Subchapter D, Chapter 492, Insurance Code, by adding Section 492.1561, as follows:

Sec. 492.1561. CERTAIN TRUSTEED ASSUMING REINSURERS; REQUIREMENTS FOR TRUST AGREEMENTS. (a) Defines "commissioner."

(b) Prohibits the credit permitted by Section 492.102(a)(3) or (4), if the assuming insurer does not meet the requirements of Section 492.102(a)(1) or (2), from being allowed unless the assuming insurer agrees in the trust agreements that:

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

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

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

(2) claims in a proceeding described by Subdivision (1)(B) are required to be filed with the commissioner;

(3) the commissioner is required to value the claims described by Subdivision (2) and distribute the assets of the trust under the laws of the

trust's domiciliary state applicable to the liquidation of a domestic insurance company;

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

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

SECTION 8. Amends Section 493.102(a), Insurance Code, as follows:

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

(1) Makes no change to this subdivision;

(2)-(3) Makes nonsubstantive changes; or

(4) is determined by the commissioner to meet the requirements of Sections 493.1033-493.1038, as applicable.

SECTION 9. Amends Subchapter C, Chapter 493, Insurance Code, by adding Sections 493.1033, 493.1034, 493.1035, 493.1036, 493.1037, 493.1038, and 493.1039, as follows:

Sec. 493.1033. CREDIT ALLOWED FOR CERTAIN CERTIFIED INSURERS. (a) Requires that credit be allowed when the reinsurance is ceded to an assuming insurer that is certified by the commissioner as a reinsurer in this state and secures its obligations in accordance with the requirements of this section and Section 493.1034-493.1038.

(b) Requires that the assuming insurer, to be eligible for certification:

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

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

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

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

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

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

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

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

Sec. 493.1034. CERTAIN ASSOCIATIONS MAY BE CERTIFIED REINSURERS. (a) Authorizes an association that includes incorporated and individual unincorporated underwriters to be a certified reinsurer under Section 493.1033. Requires the association, to be eligible for certification, to satisfy the requirements of Section 493.1033 and this section.

(b) Sets forth the criteria that the association is required to satisfy.

(c) Prohibits the incorporated members of the association acting as members of the association from being engaged in any business other than underwriting, and provides that such members are subject to the same level of regulation and solvency control by the association's domiciliary regulator as are the unincorporated members.

(d) Requires the association, not later than the 90th day after the date the association's financial statements are due to be filed with the association's domiciliary regulator, to provide to the commissioner an annual certification by the domiciliary regulator of the solvency of each member, or, if such a certification is unavailable, financial statements of each underwriter member of the association, prepared by independent public accountants.

Sec. 493.1035. QUALIFIED JURISDICTIONS. (a) Requires the commissioner to develop and publish a list of qualified jurisdictions in which an assuming insurer is authorized to be licensed and domiciled in order to be considered for certification by the commissioner under Section 493.1033 as a certified insurer. Requires the commissioner, in developing the list, to consider the list of qualified jurisdictions published through the NAIC committee process.

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

(c) Requires a jurisdiction, in order to be qualified, to agree to share information and cooperate with the commissioner with respect to all certified reinsurers doing business in the jurisdiction.

(d) Prohibits a jurisdiction from being recognized as qualified if the commissioner has determined that the jurisdiction does not adequately and promptly enforce final United States judgments and arbitration awards. Authorizes additional factors to be considered in the discretion of the commissioner.

(e) Requires the commissioner, upon approving under this section a jurisdiction as qualified that does not appear on the list of qualified jurisdictions published through the NAIC committee process, to provide documentation in accordance with rules adopted by the commissioner. Requires that the rules include a requirement for a thoroughly documented justification of the approval.

(f) Requires the commissioner to include as a qualified jurisdiction under this section a United States jurisdiction that meets the requirement for accreditation under the NAIC financial standards and accreditation program.

(g) Authorizes the commissioner, if a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, to suspend the reinsurer's certification indefinitely, instead of revoking the certification.

Sec. 493.1036. FINANCIAL REQUIREMENTS FOR CERTIFIED REINSURER. (a) Requires the commissioner to assign a financial strength rating to each certified reinsurer after considering the financial strength ratings that have been assigned by rating agencies recognized by the commissioner.

(b) Requires the commissioner to publish a list of the ratings assigned under this section for all certified reinsurers.

(c) Requires a certified reinsurer to secure obligations assumed from ceding insurers domiciled in the United States in accordance with the rating assigned by the commissioner under Subsection (a) and in accordance with this section.

(d) Requires the certified reinsurer, for a domestic ceding insurer to qualify for a full financial statement credit for reinsurance ceded to a certified reinsurer, to maintain security in a form acceptable to the commissioner and consistent with the insurance laws of this state, or in a multibeneficiary trust in accordance with Subchapter D, except as otherwise provided.

(e) Requires the certified reinsurer, if such a reinsurer maintains a trust under Subchapter D to secure its obligations and chooses to secure its obligations incurred as a certified reinsurer with a multibeneficiary trust, to maintain separate trust accounts for the obligations incurred under reinsurance agreements the certified reinsurer issued or renewed with reduced security as permitted by this section or comparable laws of other United States jurisdictions and for its obligations subject to Subchapter D. Requires the certified reinsurer, on termination of the trust account, to fund certain deficiencies.

(f) Provides that the minimum trusted surplus requirements provided in Subchapter D do not apply to a multibeneficiary trust described by this section, except that the trust is required to maintain a minimum trusted surplus of \$10,000,000.

(g) Provides that, with respect to obligations incurred by a certified reinsurer under this section, if the security is insufficient, the commissioner is required to reduce the allowable credit by an amount proportionate to the deficiency, and is authorized to impose further reductions in allowable credit on finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due.

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

Sec. 493.1037. CERTIFICATION BY NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS. Authorizes the commissioner, if an applicant for certification has been certified as a reinsurer in a NAIC accredited jurisdiction, to defer to the accredited jurisdiction's certification and the financial strength rating assigned by that jurisdiction. Requires such an applicant to be considered to be a certified reinsurer in this state.

Sec. 493.1038. SUSPENSION OR REVOCATION OF ACCREDITATION OR CERTIFICATION; INACTIVE STATUS. (a) Authorizes a certified reinsurer that ceases

to assume new business in this state to request to maintain its certification in inactive status to continue to qualify for a reduction in security for in-force business. Requires an inactive certified reinsurer to continue to comply with all applicable requirements of this section, and requires the commissioner to assign a financial strength rating that takes into account certain information.

(b) Authorizes the commissioner to, after notice and opportunity for hearing, suspend or revoke the reinsurer's accreditation or certification, if the accredited or certified reinsurer ceases to meet the requirements for accreditation or certification. Prohibits a suspension or revocation from taking effect until after the date of the commissioner's order on the hearing, unless:

(1) the reinsurer waives its right to hearing;

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

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

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

(d) Prohibits credit for reinsurance, if a reinsurer's accreditation or certification is revoked, from being granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the contract are secured in accordance with Section 493.1036 or Subchapter D.

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

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

SECTION 10. Amends Section 493.151, Insurance Code, as follows:

Sec. 493.151. APPLICABILITY OF SUBCHAPTER. Provides that this subchapter applies to a trust that is used to qualify for a reinsurance credit under Section 493.102(a)(3) and as described by Sections 493.1036(e) and (f), and the assuming insurer that maintains the trust fund.

SECTION 11. Amends Section 493.152, Insurance Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Requires the trust, if the assuming insurer is a single insurer, to:

(1) Makes no change to this subdivision; and

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

(a-1) Authorizes the risk assessment described by Subsection (a)(2) to involve an actuarial review, including an independent analysis of reserves and cash flows, and requires such assessment to consider all material risk factors, including when applicable, the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. Prohibits the minimum required trusteed surplus from being reduced to an amount less than 30 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers.

SECTION 12. Amends Section 493.155(b), Insurance Code, to require the assuming insurer, in order to enable the commissioner to determine the sufficiency of the trust fund under Section 493.102(a)(3) and for purposes of Sections 493.1036(e) and (f), to report to TDI not later than March 1 of each year information substantially the same as the information required to be reported by an authorized insurer on NAIC's Annual Statement form.

SECTION 13. Amends Section 493.156(a), Insurance Code, to prohibit a ceding insurer from being allowed credit under Section 493.102(a)(3) for reinsurance ceded to an assuming insurer that is not authorized, accredited, or certified to engage in the business of insurance or reinsurance in this state unless the assuming insurer agrees to certain requirements in the reinsurance contract. Sets forth such requirements.

SECTION 14. Amends Subchapter D, Chapter 493, Insurance Code, by adding Section 493.1561, as follows:

Sec. 493.1561. CERTAIN TRUSTEED ASSUMING REINSURERS; REQUIREMENTS FOR TRUST AGREEMENTS. (a) Defines "commissioner."

(b) Prohibits the credit permitted by Section 493.102(a)(3) or (4), if the assuming insurer does not meet the requirements of Section 493.102(a)(1) or (2), from being allowed unless the assuming insurer agrees in the trust agreements that:

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

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

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

(2) claims in a proceeding described by Subdivision (1)(B) are required to be filed with the commissioner;

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

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

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

SECTION 15. Makes application of this Act prospective to January 1, 2016.

SECTION 16. Effective date: September 1, 2015.