

- SUBJECT:** Modifying reinsurance contract regulations; certifying reinsurers
- COMMITTEE:** Insurance — committee substitute recommended
- VOTE:** 9 ayes — Phillips, Muñoz, R. Anderson, Gooden, Oliverson, Paul, Sanford, Turner, Vo
- 0 nays
- WITNESSES:** For — Ted Kennedy, AIG; Craig MacIntyre, Home State County Mutual; (*Registered, but did not testify:* Jay Thompson, AFACT; Deborah Polan, AIG; Thomas Ratliff, American Insurance Association; John Marlow, Chubb; Chris Britton, Lloyd's America; Paul Martin, National Association of Mutual Insurance Companies; Michael Garcia, Redpoint Insurance Group; Amanda Martin, Texas Association of Business; Jamie Dudensing, Texas Association of Health Plans; Jennifer Cawley, Texas Association of Life and Health Insurance; Kari King, USAA)
- Against — None
- On — (*Registered, but did not testify:* Doug Slape, Texas Department of Insurance)
- BACKGROUND:** Insurance Code, sec. 493.051 allows insurers authorized to engage in business in this state to provide reinsurance. Sec. 493.102 permits these insurers to receive credit for reinsurance ceded only if the assuming insurer:
- is authorized to engage in the business of insurance or reinsurance in Texas;
 - is accredited as a reinsurer in Texas; or
 - maintains a trust fund in a qualified United States financial institution authorized to operate with fiduciary powers.
- Otherwise, assuming insurers party to a reinsurance agreement must provide 100 percent collateral.

Some observers perceive a need to expand the flexibility of insurance companies in negotiating reinsurance contracts, noting that current law allows credit reinsurance transactions on the basis of geographic location, not financial solvency. They say that modifying the requirements for credit reinsurance agreements would improve the quality, coverage, and security of insurance transactions in Texas.

DIGEST:

The bill would allow credit to be issued to an insurer ceding risk in a reinsurance transaction only if the reinsurer was certified by the Commissioner of Insurance. To be eligible for certification, insurers would have to:

- be domiciled and licensed to transact insurance or reinsurance in a jurisdiction listed as qualified by the commissioner;
- maintain minimum capital and surplus in an amount required by the commissioner;
- maintain a financial strength rating from at least two rating agencies deemed acceptable by the commissioner;
- agree to submit to the jurisdiction of any court in the United States;
- appoint the commissioner as its agent for service of process;
- provide 100 percent collateral if the assuming insurer resisted enforcement of a court's final judgment; and
- satisfy any requirements, including application information filing requirements, established by the commissioner.

An assuming insurer that was not authorized to engage in the business of insurance or reinsurance in Texas or was not accredited as a reinsurer in this state could still be party to a credit reinsurance transaction if the assuming insurer agreed to comply with commissioner or court orders to transfer all assets of the fund to the commissioner if it became inadequate or the grantor of the trust became insolvent.

The commissioner would be required to publish a list of ratings assigned to each certified reinsurer based on its financial strength rating and maintenance of security. Reinsurers would be authorized to maintain

security in separate trust accounts of a multibeneficiary trust, provided that the trust maintained a minimum trusted surplus of \$10 million. The commissioner could make reductions in allowable credit.

The bill also would qualify underwriters' associations to be certified reinsurers, provided that they meet certain capital and surplus, solvency control, and regulatory requirements.

The bill would require the commissioner to publish a list of qualified jurisdictions in which a certified assuming insurer must be licensed and domiciled. In doing so, the commissioner would consider a jurisdiction's status with the National Association of Insurance Commissioners, effectiveness of reinsurance systems, willingness to cooperate with the commissioner, and willingness to enforce United States judgments and awards.

The bill would require a ceding insurer to notify the commissioner within 30 days if its reinsurance recoverable exceeds or is likely to exceed 50 percent of the insurer's last reported surplus to policyholders, or if it cedes more than 20 percent of the amount of its gross written premium from the last year to an assuming insurer. This requirement would not apply to a county mutual insurance company that did not write or assume insurance in another state.

The bill would authorize the commissioner to reduce the amount of trusted surplus required of a single assuming insurer, but not to an amount less than 30 percent of that insurer's liabilities from reinsurance ceded by United States insurers.

In order to assume risk in a reinsurance transaction, a trust would have to be approved by the commissioner or an insurance regulatory official of another state with principal regulatory oversight and file a copy of the trust instrument with the commissioner. Beneficiaries of the trust fund could request certain financial information annually.

The commissioner could suspend or revoke certification if the reinsurer

ceased to meet the requirements for certification, in which case the reinsurer would have to provide 100 percent collateral to engage in a reinsurance transaction. Certified reinsurers that stopped assuming new business could request inactive status and would still have to comply with requirements for certification during inactive periods.

The bill would require the commissioner to adopt rules to enforce these changes to Insurance Code, ch. 493.

The bill would take effect September 1, 2017, and would apply only to a reinsurance contract entered into or renewed on or after January 1, 2018.

NOTES:

A companion bill, SB 1070 by Hancock, was approved by the Senate on April 27 and referred to the House Committee on Insurance.