

ARIZONA HOUSE OF REPRESENTATIVES
Fifty-second Legislature – First Regular Session

COMMITTEE ON INSURANCE

Report of Regular Meeting
Wednesday, February 18, 2015
House Hearing Room 4 -- 10:00 a.m.

Convened 10:09 a.m.

Recessed

Reconvened

Adjourned 11:32 a.m.

Members Present

Mr. Coleman
Mr. Larkin
Mr. Lovas
Ms. McCune Davis
Ms. Otondo
Mr. Robson
Mr. Livingston, Vice-Chairman
Ms. Fann, Chairman

Members Absent

Request to Speak

Report – Attachment 1

Presentations

<u>Name</u>	<u>Organization</u>	<u>Attachments (Handouts)</u>
None		

Committee Action

<u>Bill</u>	<u>Action</u>	<u>Vote</u>	<u>Attachments (Summaries, Amendments, Roll Call)</u>
HB2135	DPA S/E	6-1-0-1	2, 3, 4
HB2334	HELD		
HB2352	DPA S/E	8-0-0-0	5, 6, 7



Adrian Luth, Chairman Assistant
Wednesday, February 18, 2015

(Original attachments on file in the Office of the Chief Clerk; video archives available at <http://www.azleg.gov>)

Information Registered on the Request to Speak System

House Insurance (2/18/2015)

HB2135, technical correction; insurance; existing actions

Testified in support:

David Childers, FARMERS INSURANCE GROUP OF COMPANIES, PROPERTY CASUALTY INSURERS ASSOC OF AMERICA; Don Isaacson, STATE FARM INSURANCE COMPANIES; Steve Thompson, representing self; Michael Pinckard, representing self

Testified as opposed:

Robert Burgess, representing self

Support:

Kerry L. Hayden, FARMERS INSURANCE GROUP OF COMPANIES; Wendy Briggs, UBER TECHNOLOGIES, INC; John MacDonald, Total Transit, Inc.; Amanda Rusing, American Insurance Association; Barbara Meaney, LYFT

Neutral:

Marc Osborn, PROPERTY CASUALTY INSURERS ASSOC OF AMERICA; Andrew Carlson, Executive Assistant for Policy Affairs, AZ DEPT OF INSURANCE

All Comments:

Kerry L. Hayden, FARMERS INSURANCE GROUP OF COMPANIES: We are working with the stakeholder process on Ride Sharing and we are confident that Rep Fann's bill will ultimately reflect the final consensus product.; Barbara Meaney, LYFT: We support the striker amendment. Many thanks to Rep. Fann and Livingston for leading a stakeholder process on this important policy issue.; Marc Osborn, PROPERTY CASUALTY INSURERS ASSOC OF AMERICA: Support the stakeholder process directed by Rep. Fann and Livingston; Robert Burgess, Self: Need better definition of "prearranged ground transportation" No enforcement provisions for insurance rider.

HB2334, unfair claim processing; procedure; penalties

Testified in support:

Marc Osborn, PROPERTY CASUALTY INSURERS ASSOC OF AMERICA; Jeff Gray, AZ CHAMBER OF COMMERCE, AZ SELF-INSURERS ASSOC, Self; James Stabler, COPPERPOINT MUTUAL INSURANCE CO DBA SCF ARIZONA

Testified as opposed:

Richard Langerman, Arizona Trial Lawyers Association; Brian Clymer, representing self; Michael Colletto, PROFESSIONAL FIRE FIGHTERS OF AZ

Support:

Farrell Quinlan, State Director, NATIONAL FEDERATION OF INDEPENDENT BUSINESS; David Childers, FARMERS INSURANCE GROUP OF COMPANIES, PROPERTY CASUALTY INSURERS ASSOC OF AMERICA; Mike Huckins, GREATER

PHOENIX CHAMBER OF COMMERCE; Garrick Taylor, Arizona Chamber Of Commerce And Industry; Kerry L. Hayden, FARMERS INSURANCE GROUP OF COMPANIES; Eric Emmert, East Valley Chambers Of Commerce Alliance ; Amanda Rusing, American Insurance Association; J. Michael Low, Attorney, Other

Neutral:

Tom Dorn, American Insurance Association

Oppose:

Barry Aarons, AZ ASSN OF LAWYERS FOR INJURED WORKERS, AZ TRIAL LAWYERS ASSOCIATION; Julie Wilson, representing self; Debra Runbeck, representing self; Kevin Wein, representing self; Weston Montrose, representing self

All Comments:

Brian Clymer, Self: HB 2334 would force all bad faith complaints to go through the ICA which is not equipped to handle this increase in workload. Regular workers' compensation cases will be delayed as a result.; Tom Dorn, American Insurance Association: AIA is neutral.; J. Michael Low, Other: AIG

HB2352, credit for reinsurance

Testified in support:

David Childers, PROPERTY CASUALTY INSURERS ASSOC OF AMERICA

Support:

Tom Dorn, American Insurance Association; Andrew Carlson, Executive Assistant for Policy Affairs, AZ DEPT OF INSURANCE; J. Michael Low, Attorney, Prudential & American Council Of Life Insurers



HOUSE OF REPRESENTATIVES

HB 2135

technical correction; insurance; existing actions

Sponsor: Representative Fann

X Committee on Insurance

Caucus and COW

House Engrossed

OVERVIEW

HB 2135 makes a technical correction to statute.

Summary of the Proposed Strike-Everything Amendment HB 2135

The proposed strike-everything amendment to HB 2135 adds terms relating to transportation network company, service, and vehicle regarding insurance.

HISTORY

The Arizona Department of Weights and Measures (Department) is the primary authority for licensing and regulating taxi, livery vehicles and limousines in the state. Statute requires owners of livery vehicles, taxis and limousines to allow the Department to inspect criminal background checks and drug testing of vehicle operators and allow the inspection of vehicle maintenance records (Arizona Revised Statutes (A.R.S.) § 41-2097). Additionally, statute specifies the licensing requirements for taxi, livery vehicles and limousines (A.R.S. § 2091).

A.R.S. § 41-2051 defines *livery vehicle* and *taxi*. A *livery vehicle* is a motor vehicle that provides passenger services for a fare determined by a flat rate or flat hourly rate between geographic zones or within a geographic area. A *taxi* is defined as a motor vehicle that is registered as a taxi in this state or any other state and offers local transportation for a fare determined primarily on the basis of the distance traveled.

PROVISIONS

1. Includes a private automobile that is used as a transportation network vehicle by an individual who has been issued a transportation network endorsement to the individual's motor vehicle insurance policy to the definition of *motor vehicle* as it relates to insurance coverage.
2. Prevents an insurer from canceling or renewing the insurance afforded under the policy for a private automobile that is used as a transportation network vehicle if the named insured has procured a transportation network endorsement to the policy providing coverage for vehicle.
3. States that for the purposes of canceling or failing to renew a policy the terms *fail to renew* and *nonrenewal* does not include the cancellation, termination or removal by an insurer of an endorsement to a motor vehicle insurance policy that provides coverages, directly or indirectly, related to the provision of *transport network services*.
4. Adds that *prearranged ground transportation service* also means is arranged through an online-enabled application or platform.
5. Clarifies that a *livery vehicle* or a *taxi* is not a transportation network vehicle.

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First Regular Session

Analyst Initials _____
February 17, 2015

ATTACHMENT 2

HB 2135

6. Provides the following definitions:

- a. *Transportation network company* means a company that provides prearranged ground transportation services for compensation, donation, or tips using an online-enabled application or platform.
- b. *Transportation network service* means the provision of a transportation service by a participating driver through a transportation network.
- c. *Transportation network vehicle* means a vehicle that is used by a participating driver to provide transportation network services, that has at least four doors and that is designed to carry not more than eight passengers, including the driver.

PROPOSED
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2135
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 Section. 1. Section 20-736, Arizona Revised Statutes, is amended to
3 read:

4 20-736. Transfer of direct obligations; assignment; notice;
5 findings; approval; applicability

6 A. An authorized insurer shall not transfer or assign the insurer's
7 direct obligations under any insurance contract or policy, including
8 annuities and any guaranteed investment contract, on subjects located,
9 resident or to be performed in this state, that were incurred or assumed
10 under the insurer's authority to transact business as an insurer in this
11 state or under a certificate of exemption pursuant to section 20-401.05 to
12 any other insurer or other party by operation of law, including any law that
13 permits the division of a corporation into two or more resulting
14 corporations, unless the affected contract holder or policyholder consents to
15 or fails to reject the transfer or assignment within one hundred eighty days
16 after receiving a fair, adequate and nonmisleading notice of the transfer or
17 assignment or unless the director approves the transfer or assignment
18 pursuant to this section.

19 B. The director shall not approve any transfer or assignment described
20 in subsection A of this section unless the director makes all of the
21 following findings:

22 1. The transaction is fair, reasonable and not contrary to law.

23 2. The transaction will not substantially reduce the security of and
24 service to be rendered to contract holders and policyholders in this state.

25 3. The transaction will not be hazardous to or prejudicial against
26 insureds in this state.

27 4. The nature and details of the transaction have been adequately
28 disclosed.

29 5. The transaction will not have an adverse effect on the financial
30 condition of any insurer.

31 6. The persons who will control the operation of the insurer or other
32 party to which the obligations to contract holders and policyholders in this

Adopted # of Verbals _____
Failed _____ Withdrawn _____
Not Offered _____ Analysts Initials _____

1 4. A transfer or assignment resulting from a division or merger of a
2 corporation that was filed for regulatory approval in the corporation's state
3 of domicile on or before December 31, 1996.

4 Sec. 2. Section 20-1631, Arizona Revised Statutes, is amended to read:

5 20-1631. Definition of motor vehicle; cancellation of or
6 failure to renew coverage; limitations; limitation
7 of liability; exceptions; insurance producers

8 A. In this article, unless the context otherwise requires, "motor
9 vehicle" means a licensed land, motor-driven vehicle but does not mean:

10 1. A private passenger or station wagon type vehicle used as a public
11 or livery conveyance or rented to others, EXCEPT FOR A PRIVATE AUTOMOBILE
12 THAT IS USED AS A TRANSPORTATION NETWORK VEHICLE BY AN INDIVIDUAL WHO HAS
13 BEEN ISSUED A TRANSPORTATION NETWORK ENDORSEMENT TO THE INDIVIDUAL'S MOTOR
14 VEHICLE INSURANCE POLICY.

15 2. Any other four-wheel motor vehicle of a load capacity of fifteen
16 hundred pounds or less that is used in the business of transporting
17 passengers for hire, used in business primarily to transport property or
18 equipment, used as a public or livery conveyance or rented to others.

19 3. Any motor vehicle with a load capacity of more than fifteen hundred
20 pounds.

21 B. A motor vehicle used as a public or livery conveyance or rented to
22 others does not include a motor vehicle used in the course of volunteer work
23 for a tax-exempt organization as described in section 43-1201, subsection A,
24 paragraph 4.

25 C. An insurer shall not cancel or refuse to renew a motor vehicle
26 insurance policy solely because of the location of residence, age, race,
27 color, religion, sex, national origin or ancestry of anyone who is an
28 insured.

29 D. An insurer shall not issue a motor vehicle insurance policy in this
30 state unless the cancellation and renewal conditions of the policy or the
31 endorsement on the policy includes the limitations required by this
32 section. After a policy issued in this state has been in effect for sixty
33 days, or if the policy is a renewal, effective immediately, the company shall
34 not exercise its right to cancel or fail to renew the insurance afforded
35 under the policy unless:

36 1. The named insured fails to discharge when due any of the
37 obligations of the named insured in connection with the payment of premium
38 for this policy or any installment of the premium.

39 2. The insurance was obtained through fraudulent misrepresentation.

40 3. The named insured, any person who resides in the same household as
41 the named insured and customarily operates a motor vehicle insured under the

1 policy or any other person who regularly and frequently operates a motor
2 vehicle insured under the policy:

3 (a) Has had the person's driver license suspended or revoked during
4 the policy period.

5 (b) Develops a permanent disability, either physically or mentally,
6 and such individual does not produce a certificate from a physician or a
7 registered nurse practitioner testifying to such person's ability to operate
8 a motor vehicle.

9 (c) Is or has been convicted during the thirty-six months immediately
10 preceding the effective date of the policy or during the policy period of:

11 (i) Criminal negligence resulting in death, homicide or assault and
12 arising out of the operation of a motor vehicle.

13 (ii) Operating a motor vehicle while in an intoxicated condition or
14 while under the influence of drugs.

15 (iii) Leaving the scene of an accident.

16 (iv) Making false statements in an application for a driver license.

17 (v) Reckless driving.

18 4. The insurer is placed in rehabilitation or receivership by the
19 insurance supervisory official in its state of domicile or by a court of
20 competent jurisdiction or the director has suspended the insurer's
21 certificate of authority based on its financially hazardous condition.

22 5. The named insured, any person who resides in the same household as
23 the named insured and customarily operates a motor vehicle insured under the
24 policy or any other person who regularly and frequently operates a motor
25 vehicle insured under the policy uses a motor vehicle rated or insured under
26 the policy as a private passenger motor vehicle regularly and frequently for
27 commercial purposes, EXCEPT FOR A PRIVATE AUTOMOBILE THAT IS USED AS A
28 TRANSPORTATION NETWORK VEHICLE IF THE NAMED INSURED HAS PROCURED A
29 TRANSPORTATION NETWORK ENDORSEMENT TO THE POLICY PROVIDING COVERAGE FOR THE
30 USE.

31 6. The director determines that the continuation of the policy would
32 place the insurer in violation of the laws of this state or would jeopardize
33 the solvency of the insurer.

34 7. If the insured and the insured's family members are eligible for
35 insurance based solely on the insured's employment with the insurer,
36 employment of the insured with that insurer is terminated and the insurer
37 exercises its right to nonrenew the policy within twelve months following the
38 insured's termination of employment.

39 E. In addition to the authorization to fail to renew insurance
40 provided by subsection D of this section, an insurer may exercise its right
41 to fail to renew a motor vehicle insurance policy pursuant to this

1 subsection. An insurer shall provide notice of the nonrenewal to the named
2 insured as prescribed by section 20-1632 at least forty-five days before the
3 nonrenewal. A named insured who disputes the nonrenewal of the named
4 insured's policy may file an objection with the director pursuant to section
5 20-1633. An insurer shall not fail to renew more than one-half of one ~~per~~
6 ~~cent~~ PERCENT of its policies annually pursuant to this subsection. An
7 insurer may fail to renew a motor vehicle insurance policy if the named
8 insured, any person who resides in the same household as the named insured
9 and who customarily operates a motor vehicle insured under the policy or any
10 other person who regularly and frequently operates a motor vehicle insured
11 under the policy has had at any time during the thirty-six months immediately
12 before the notice of nonrenewal three or more at-fault accidents under any
13 motor vehicle insurance policy issued by this insurer in which the property
14 damage paid by the insurer for each accident that occurred prior to January
15 1, 2000 is more than one thousand eight hundred dollars. For accidents
16 occurring on or after January 1, 2000, the department of insurance shall
17 annually adjust and publish, to the nearest ten dollars, the threshold amount
18 of property damages in this subsection by the percentage change in the all
19 items component of the consumer price index for all urban consumers of the
20 United States department of labor, bureau of labor statistics. The insurer
21 shall not exercise its right to fail to renew the insurance under this
22 subsection unless the same individual has had all the accidents that make the
23 policy subject to nonrenewal under this subsection. The insurer shall not
24 exercise its right to fail to renew a motor vehicle insurance policy pursuant
25 to this subsection due to the accident record of the named insured if the
26 named insured has been insured for standard automobile bodily injury coverage
27 for at least ten consecutive years with the same insurer prior to the most
28 recent accident that makes the policy subject to nonrenewal under this
29 subsection. For the purposes of this subsection, "at-fault" means the
30 insured is at least fifty ~~per cent~~ PERCENT responsible for the accident.

31 F. The company shall not cancel or fail to renew the insurance when a
32 person other than the named insured has violated subsection D, paragraph 3 of
33 this section, or fail to renew the insurance pursuant to subsection E of this
34 section due to the driving record of an individual other than the named
35 insured, if the named insured in writing agrees to exclude as insured the
36 person by name when operating a motor vehicle and further agrees to exclude
37 coverage to the named insured for any negligence that may be imputed by law
38 to the named insured arising out of the maintenance, operation or use of a
39 motor vehicle by the excluded person. The written agreement that excludes
40 coverage under a policy for a named individual is effective for each renewal
41 of the policy by the insurer and remains in effect until the insurer agrees

1 in writing to provide coverage for the named individual who was previously
2 excluded from coverage.

3 G. This article does not apply to any policy that has been in effect
4 less than sixty days at the time notice of cancellation is mailed or
5 delivered by the insurer unless the policy is a renewal policy, or to
6 policies:

7 1. Insuring any motor vehicle other than a private passenger motor
8 vehicle as defined in section 20-117.

9 2. Insuring the motor vehicle hazard of garages, motor vehicle sales
10 agencies, repair shops, service stations or public parking places.

11 3. Providing insurance only on an excess basis.

12 H. If a consumer purchases motor vehicle insurance coverage from an
13 insurance producer licensed in this state, the insurance producer that owns
14 the policy expiration shall remain the insurance producer of record for that
15 insured. In the event the insurer terminates the insurance producer's
16 contract, the insurance producer shall continue to provide customary services
17 to the insured. The insurer shall provide the insurance producer with a
18 minimum degree of authority necessary to provide customary services to the
19 insured and shall provide the same level of compensation for these services
20 that were in effect prior to the termination of the insurance producer
21 contract.

22 I. Subsection H of this section shall not apply if one or more of the
23 following conditions exist:

24 1. The insurance producer of record has had its license suspended or
25 revoked by the department.

26 2. The insurance producer of record is indebted to the insurer.

27 3. The insured has supplied the insurer with a written request that
28 its insurance producer of record be changed to another insurance producer of
29 the insurer.

30 4. The insurance producer of record has authorized transfer of this
31 account to another licensed insurance producer of the insurer.

32 5. The director has determined after a public hearing that
33 continuation of this relationship is not in the best interest of the public.

34 6. The insurance producer of record is under an exclusive contract or
35 contract requiring the insurance producer to submit all eligible business to
36 an insurer or group of insurers under a common management.

37 J. Subsection H of this section shall not apply to any transaction in
38 which the expiration of the policies is owned by the insurer.

39 K. Notwithstanding any law to the contrary, the issuance at renewal of
40 revised policy provisions to modify an existing policy by adding coverages or
41 policy provisions, modifying coverages or policy provisions, or eliminating

1 coverages or policy provisions is not a nonrenewal or cancellation of the
2 policy if the modification of a basic coverage does not eliminate the
3 essential benefit of that basic coverage. If the modification of the basic
4 coverage eliminates the essential benefit of the basic coverage, the director
5 shall order the insurer to remove the modification from the policy. This
6 subsection does not allow the insurer, without the written consent of the
7 insured, to eliminate the basic coverages of the policy or to reduce the
8 monetary limits of any of the basic coverages of the policy that were
9 selected and agreed on. This subsection does not limit a policyholder from
10 continuing to renew uninsured or underinsured motorist coverage pursuant to
11 section 20-259.01. For the purposes of this subsection, "basic coverage"
12 means any of the following:

- 13 1. Bodily injury coverage.
- 14 2. Property damage coverage.
- 15 3. Uninsured motorist coverage.
- 16 4. Underinsured motorist coverage.
- 17 5. Medical payments coverage.
- 18 6. Comprehensive coverage.
- 19 7. Collision coverage.

20 L. For the purposes of this section, "fail to renew" or "nonrenewal"
21 does not include:

- 22 1. The issuance and delivery of a new policy within the same insurer
23 or an insurer under the same ownership or management as the original insurer
24 as provided in this subsection. An insurer may transfer up to one ~~per-cent~~
25 PERCENT of its policies to an affiliated insurer within one calendar year if
26 under a policy to be transferred one or more of the insureds that are insured
27 under the policy have individually within the past thirty-six months had two
28 or more at-fault accidents under any motor vehicle insurance policy issued by
29 this insurer in which the property damage paid by the insurer for each
30 accident exceeded one thousand five hundred dollars or individually have had
31 three or more moving violations. Moving violations for which an insured
32 completes an approved traffic school program shall not be considered as a
33 moving violation under this section. A company shall not transfer a policy
34 if a named insured agrees in writing to exclude as an insured a person or
35 persons who each individually meet the criteria for transfer pursuant to this
36 subsection and further agrees to exclude coverage for any negligence that may
37 be imputed by law to the named insured arising out of the maintenance,
38 operation or use of a motor vehicle by such excluded person or persons. An
39 insurer shall transfer only those individuals responsible for the at-fault
40 accidents or moving violations, and the excluded or transferred insured's
41 driving record shall not be used in determining rates, surcharges or premiums

1 for the nonexcluded or nontransferred insured. The one ~~per-cent~~ PERCENT
2 limit set forth in this subsection shall not apply to transfers of policies
3 from the original insurer to another insurer under the same ownership or
4 management as the original insurer if the rates charged by the other insurer
5 are the same as or lower than the rates charged by the original insurer. No
6 insurer shall transfer policyholders because of their location of residence,
7 age, race, color, religion, sex, national origin or ancestry. Transfers by
8 an insurer pursuant to this subsection shall not be construed to permit a new
9 unrestricted sixty day period for cancellation or nonrenewal.

10 2. THE CANCELLATION, TERMINATION OR REMOVAL BY AN INSURER OF AN
11 ENDORSEMENT TO A MOTOR VEHICLE INSURANCE POLICY THAT PROVIDES COVERAGES,
12 DIRECTLY OR INDIRECTLY, RELATED TO THE PROVISION OF TRANSPORT NETWORK
13 SERVICES AS DEFINED IN SECTION 28-101.

14 M. Except as provided in this subsection, an insurer shall not refuse
15 to renew a policy until after August 31, 1998, based on an insured's failure
16 to maintain membership in a bona fide association, until both the insurer and
17 bona fide association have complied with this subsection and shall not refuse
18 to renew any coverage continuously in effect before September 1, 1998,
19 subject to all the following:

20 1. In addition to any other reason provided in this section, an
21 insurer may refuse to renew an insurance policy issued pursuant to this
22 article if all of the following conditions apply:

23 (a) The insurer clearly discloses to the applicant and the insured in
24 the application for insurance and insurance policy that both the payment of
25 dues and current membership in the bona fide association are prerequisites to
26 obtaining or renewing the insurance.

27 (b) Any money paid to the bona fide association as a membership fee:

28 (i) Is not used by the insurer directly or indirectly to defray any
29 costs or expenses in connection with the sale or purchase of the insurance.

30 (ii) Is set independently of any factor used by the insurer to make
31 any judgment or determination about the eligibility of any individual,
32 including the member, an employee of a member or a dependent of a member, to
33 purchase or renew the insurance.

34 (c) The bona fide association has filed a certification with the
35 director verifying the eligibility of the insurer to refuse to renew an
36 insurance policy based on membership in the bona fide association.

37 2. To qualify as a bona fide association pursuant to this subsection,
38 the association shall meet all of the requirements of this paragraph. The
39 association shall file a statement with the director at least thirty days
40 before the commencement of the offer or sale of insurance as provided by this
41 subsection verifying that the association meets the requirements of this

1 paragraph. The association shall update the filing required by this
2 paragraph at least thirty days before the effective date of any material
3 change in the information contained in the statement, and shall file a
4 separate notice with the director if the insurance described in the statement
5 is no longer available through the association. The statement shall include
6 the following information:

7 (a) That the association has been in active existence for at least
8 five consecutive years immediately before the filing of the statement.

9 (b) That the association has been formed and maintained in good faith
10 for purposes other than obtaining or providing insurance and does not
11 condition membership in the association on the purchase of insurance.

12 (c) That the association has articles of incorporation and bylaws or
13 other similar governing documents.

14 (d) That the association does not condition membership in the
15 association or set membership fees on the eligibility of any individual,
16 including the member, an employee of the member or a dependent of the member,
17 to purchase or renew the insurance, or on any factor that the insurer could
18 not lawfully consider when setting rates.

19 (e) That the association has a relationship with a specific insurer or
20 insurers and identifies the insurer or insurers.

21 3. Membership fees collected by the bona fide association are not
22 premiums of the insurer that issued the coverage unless the bona fide
23 association:

24 (a) Uses any portion of the membership fees directly or indirectly to
25 defray any costs or expenses in connection with the sale or purchase of the
26 insurance.

27 (b) Sets or adjusts membership fees for any member of the bona fide
28 association based on any factor used by the insurer that issues the insurance
29 to make any judgment or determination about the eligibility of any
30 individual, including the member, an employee of the member or a dependent of
31 the member, to purchase or renew the insurance.

32 4. If the membership fees constitute premiums pursuant to paragraph 3
33 of this subsection, an insurer shall not refuse to renew a policy as
34 otherwise permitted by this subsection.

35 Sec. 3. Section 28-101, Arizona Revised Statutes, is amended to read:

36 28-101. Definitions

37 In this title, unless the context otherwise requires:

38 1. "Alcohol" means any substance containing any form of alcohol,
39 including ethanol, methanol, propynol and isopropynol.

J 2. "Alcohol concentration" if expressed as a percentage means either:

1 (a) The number of grams of alcohol per one hundred milliliters of
2 blood.

3 (b) The number of grams of alcohol per two hundred ten liters of
4 breath.

5 3. "All-terrain vehicle" means either of the following:

6 (a) A motor vehicle that satisfies all of the following:

7 (i) Is designed primarily for recreational nonhighway all-terrain
8 travel.

9 (ii) Is fifty or fewer inches in width.

10 (iii) Has an unladen weight of one thousand two hundred pounds or
11 less.

12 (iv) Travels on three or more nonhighway tires.

13 (v) Is operated on a public highway.

14 (b) A recreational off-highway vehicle that satisfies all of the
15 following:

16 (i) Is designed primarily for recreational nonhighway all-terrain
17 travel.

18 (ii) Is sixty-five or fewer inches in width.

19 (iii) Has an unladen weight of one thousand eight hundred pounds or
20 less.

21 (iv) Travels on four or more nonhighway tires.

22 4. "Authorized emergency vehicle" means any of the following:

23 (a) A fire department vehicle.

24 (b) A police vehicle.

25 (c) An ambulance or emergency vehicle of a municipal department or
26 public service corporation that is designated or authorized by the department
27 or a local authority.

28 (d) Any other ambulance, fire truck or rescue vehicle that is
29 authorized by the department in its sole discretion and that meets liability
30 insurance requirements prescribed by the department.

31 5. "Aviation fuel" means all flammable liquids composed of a mixture
32 of selected hydrocarbons expressly manufactured and blended for the purpose
33 of effectively and efficiently operating an internal combustion engine for
34 use in an aircraft but does not include fuel for jet or turbine powered
35 aircraft.

36 6. "Bicycle" means a device, including a racing wheelchair, that is
37 propelled by human power and on which a person may ride and that has either:

38 (a) Two tandem wheels, either of which is more than sixteen inches in
39 diameter.

40 (b) Three wheels in contact with the ground, any of which is more than
41 sixteen inches in diameter.

- 1 7. "Board" means the transportation board.
- 2 8. "Bus" means a motor vehicle designed for carrying sixteen or more
3 passengers, including the driver.
- 4 9. "Business district" means the territory contiguous to and including
5 a highway if there are buildings in use for business or industrial purposes
6 within any six hundred feet along the highway, including hotels, banks or
7 office buildings, railroad stations and public buildings that occupy at least
8 three hundred feet of frontage on one side or three hundred feet collectively
9 on both sides of the highway.
- 10 10. "Combination of vehicles" means a truck or truck tractor and
11 semitrailer and any trailer that it tows but does not include a forklift
12 designed for the purpose of loading or unloading the truck, trailer or
13 semitrailer.
- 14 11. "Controlled substance" means a substance so classified under
15 section 102(6) of the controlled substances act (21 United States Code
16 section 802(6)) and includes all substances listed in schedules I through V
17 of 21 Code of Federal Regulations part 1308.
- 18 12. "Conviction" means:
- 19 (a) An unvacated adjudication of guilt or a determination that a
20 person violated or failed to comply with the law in a court of original
21 jurisdiction or by an authorized administrative tribunal.
- 22 (b) An unvacated forfeiture of bail or collateral deposited to secure
23 the person's appearance in court.
- 24 (c) A plea of guilty or no contest accepted by the court.
- 25 (d) The payment of a fine or court costs.
- 26 13. "County highway" means a public road THAT IS constructed and
27 maintained by a county.
- 28 14. "Dealer" means a person who is engaged in the business of buying,
29 selling or exchanging motor vehicles, trailers or semitrailers and who has an
30 established place of business.
- 31 15. "Department" means the department of transportation acting
32 directly or through its duly authorized officers and agents.
- 33 16. "Director" means the director of the department of transportation.
- 34 17. "Drive" means to operate or be in actual physical control of a
35 motor vehicle.
- 36 18. "Driver" means a person who drives or is in actual physical
37 control of a vehicle.
- 38 19. "Driver license" means a license that is issued by a state to an
39 individual and that authorizes the individual to drive a motor vehicle.
- 0 20. "Electric personal assistive mobility device" means a
41 self-balancing two nontandem wheeled device with an electric propulsion

1 system that limits the maximum speed of the device to fifteen miles per hour
2 or less and that is designed to transport only one person.

3 21. "Farm" means any lands primarily used for agriculture production.

4 22. "Farm tractor" means a motor vehicle designed and used primarily
5 as a farm implement for drawing implements of husbandry.

6 23. "Foreign vehicle" means a motor vehicle, trailer or semitrailer
7 that is brought into this state other than in the ordinary course of business
8 by or through a manufacturer or dealer and that has not been registered in
9 this state.

10 24. "Golf cart" means a motor vehicle that has not less than three
11 wheels in contact with the ground, that has an unladen weight of less than
12 one thousand eight hundred pounds, that is designed to be and is operated at
13 not more than twenty-five miles per hour and that is designed to carry not
14 more than four persons including the driver.

15 25. "Hazardous material" means a material, and its mixtures or
16 solutions, that the United States department of transportation determines
17 under 49 Code of Federal Regulations is, or any quantity of a material listed
18 as a select agent or toxin under 42 Code of Federal Regulations part 73 that
19 is, capable of posing an unreasonable risk to health, safety and property if
20 transported in commerce and that is required to be placarded or marked as
21 required by the department's safety rules prescribed pursuant to chapter 14
22 of this title.

23 26. "Implement of husbandry" means a vehicle designed primarily for
24 agricultural purposes and used exclusively in the conduct of agricultural
25 operations, including an implement or vehicle whether self-propelled or
26 otherwise that meets both of the following conditions:

27 (a) Is used solely for agricultural purposes including the preparation
28 or harvesting of cotton, alfalfa, grains and other farm crops.

29 (b) Is only incidentally operated or moved on a highway whether as a
30 trailer or self-propelled unit. For the purposes of this subdivision,
31 "incidentally operated or moved on a highway" means travel between a farm and
32 another part of the same farm, from one farm to another farm or between a
33 farm and a place of repair, supply or storage.

34 27. "Limousine" means a motor vehicle providing prearranged ground
35 transportation service for an individual passenger, or a group of passengers,
36 that is arranged in advance or is operated on a regular route or between
37 specified points and includes ground transportation under a contract or
38 agreement for services that includes a fixed rate or time and is provided in
39 a motor vehicle with a seating capacity not exceeding fifteen passengers
40 including the driver.

41 28. "Livery vehicle" means a motor vehicle that:

1 (a) Has a seating capacity not exceeding fifteen passengers including
2 the driver.

3 (b) Provides passenger services for a fare determined by a flat rate
4 or flat hourly rate between geographic zones or within a geographic area.

5 (c) Is available for hire on an exclusive or shared ride basis.

6 (d) May do any of the following:

7 (i) Operate on a regular route or between specified places.

8 (ii) Offer prearranged ground transportation service as defined in
9 section 28-141.

10 (iii) Offer on demand ground transportation service pursuant to a
11 contract with a public airport, licensed business entity or organization.

12 29. "Local authority" means any county, municipal or other local board
13 or body exercising jurisdiction over highways under the constitution and laws
14 of this state.

15 30. "Manufacturer" means a person engaged in the business of
16 manufacturing motor vehicles, trailers or semitrailers.

17 31. "Moped" means a bicycle that is equipped with a helper motor if
18 the vehicle has a maximum piston displacement of fifty cubic centimeters or
19 less, a brake horsepower of one and one-half or less and a maximum speed of
20 twenty-five miles per hour or less on a flat surface with less than a one per
21 cent PERCENT grade.

22 32. "Motor driven cycle" means a motorcycle, including every motor
23 scooter, with a motor that produces not more than five horsepower.

24 33. "Motor vehicle":

25 (a) Means either:

26 (i) A self-propelled vehicle.

27 (ii) For the purposes of the laws relating to the imposition of a tax
28 on motor vehicle fuel, a vehicle that is operated on the highways of this
29 state and that is propelled by the use of motor vehicle fuel.

30 (b) Does not include a motorized wheelchair, an electric personal
31 assistive mobility device or a motorized skateboard. For the purposes of
32 this subdivision:

33 (i) "Motorized skateboard" means a self-propelled device that has a
34 motor, a deck on which a person may ride and at least two tandem wheels in
35 contact with the ground.

36 (ii) "Motorized wheelchair" means a self-propelled wheelchair that is
37 used by a person for mobility.

38 34. "Motor vehicle fuel" includes all products that are commonly or
39 commercially known or sold as gasoline, including casinghead gasoline,
40 natural gasoline and all flammable liquids, and that are composed of a
41 mixture of selected hydrocarbons expressly manufactured and blended for the

1 purpose of effectively and efficiently operating internal combustion engines.
2 Motor vehicle fuel does not include inflammable liquids that are specifically
3 manufactured for racing motor vehicles and that are distributed for and used
4 by racing motor vehicles at a racetrack, use fuel as defined in section
5 28-5601, aviation fuel, fuel for jet or turbine powered aircraft or the
6 mixture created at the interface of two different substances being
7 transported through a pipeline, commonly known as transmix.

8 35. "Motorcycle" means a motor vehicle that has a seat or saddle for
9 the use of the rider and that is designed to travel on not more than three
10 wheels in contact with the ground but ~~excluding~~ EXCLUDES a tractor and a
11 moped.

12 36. "Neighborhood electric vehicle" means a self-propelled
13 electrically powered motor vehicle to which all of the following apply:

14 (a) The vehicle is emission free.

15 (b) The vehicle has at least four wheels in contact with the ground.

16 (c) The vehicle complies with the definition and standards for low
17 speed vehicles set forth in federal motor vehicle safety standard 500 and 49
18 Code of Federal Regulations sections 571.3(b) and 571.500, respectively.

19 37. "Nonresident" means a person who is not a resident of this state
20 as defined in section 28-2001.

21 38. "Off-road recreational motor vehicle" means a motor vehicle that
22 is designed primarily for recreational nonhighway all-terrain travel and that
23 is not operated on a public highway. Off-road recreational motor vehicle
24 does not mean a motor vehicle used for construction, building trade, mining
25 or agricultural purposes.

26 39. "Operator" means a person who drives a motor vehicle on a highway,
27 who is in actual physical control of a motor vehicle on a highway or who is
28 exercising control over or steering a vehicle being towed by a motor vehicle.

29 40. "Owner" means:

30 (a) A person who holds the legal title of a vehicle.

31 (b) If a vehicle is the subject of an agreement for the conditional
32 sale or lease with the right of purchase on performance of the conditions
33 stated in the agreement and with an immediate right of possession vested in
34 the conditional vendee or lessee, the conditional vendee or lessee.

35 (c) If a mortgagor of a vehicle is entitled to possession of the
36 vehicle, the mortgagor.

37 41. "Pedestrian" means any person afoot. A person who uses an
38 electric personal assistive mobility device or a manual or motorized
39 wheelchair is considered a pedestrian unless the manual wheelchair qualifies
40 as a bicycle. For the purposes of this paragraph, "motorized wheelchair"
41 means a self-propelled wheelchair that is used by a person for mobility.

1 42. "Power sweeper" means an implement, with or without motive power,
2 that is only incidentally operated or moved on a street or highway and that
3 is designed for the removal of debris, dirt, gravel, litter or sand whether
4 by broom, vacuum or regenerative air system from asphaltic concrete or cement
5 concrete surfaces, including parking lots, highways, streets and warehouses,
6 and a vehicle on which the implement is permanently mounted.

7 43. "Public transit" means the transportation of passengers on
8 scheduled routes by means of a conveyance on an individual passenger
9 fare-paying basis excluding transportation by a ~~sight-seeing~~ SIGHTSEEING bus,
10 school bus or taxi or a vehicle not operated on a scheduled route basis.

11 44. "Reconstructed vehicle" means a vehicle that has been assembled or
12 constructed largely by means of essential parts, new or used, derived from
13 vehicles or makes of vehicles of various names, models and types or that, if
14 originally otherwise constructed, has been materially altered by the removal
15 of essential parts or by the addition or substitution of essential parts, new
16 or used, derived from other vehicles or makes of vehicles. For the purposes
17 of this paragraph, "essential parts" means integral and body parts, the
18 removal, alteration or substitution of which will tend to conceal the
19 identity or substantially alter the appearance of the vehicle.

20 45. "Residence district" means the territory contiguous to and
21 including a highway not comprising a business district if the property on the
22 highway for a distance of three hundred feet or more is in the main improved
23 with residences or residences and buildings in use for business.

24 46. "Right-of-way" when used within the context of the regulation of
25 the movement of traffic on a highway means the privilege of the immediate use
26 of the highway. Right-of-way when used within the context of the real
27 property on which transportation facilities and appurtenances to the
28 facilities are constructed or maintained means the lands or interest in lands
29 within the right-of-way boundaries.

30 47. "School bus" means a motor vehicle that is designed for carrying
31 more than ten passengers and that is either:

32 (a) Owned by any public or governmental agency or other institution
33 and operated for the transportation of children to or from home or school on
34 a regularly scheduled basis.

35 (b) Privately owned and operated for compensation for the
36 transportation of children to or from home or school on a regularly scheduled
37 basis.

38 48. "Semitrailer" means a vehicle that is with or without motive
39 power, other than a pole trailer, that is designed for carrying persons or
40 property and for being drawn by a motor vehicle and that is constructed so
41 that some part of its weight and that of its load rests on or is carried by

1 another vehicle. For the purposes of this paragraph, "pole trailer" has the
2 same meaning prescribed in section 28-601.

3 49. "State" means a state of the United States and the District of
4 Columbia.

5 50. "State highway" means a state route or portion of a state route
6 that is accepted and designated by the board as a state highway and that is
7 maintained by the state.

8 51. "State route" means a right-of-way whether actually used as a
9 highway or not that is designated by the board as a location for the
10 construction of a state highway.

11 52. "Street" or "highway" means the entire width between the boundary
12 lines of every way if a part of the way is open to the use of the public for
13 purposes of vehicular travel.

14 53. "Taxi" means a motor vehicle that has a seating capacity not
15 exceeding fifteen passengers, including the driver, that is registered as a
16 taxi in this state or any other state, that provides passenger services and
17 that:

18 (a) Does not primarily operate on a regular route or between specified
19 places.

20 (b) Offers local transportation for a fare determined on the basis of
21 the distance traveled or prearranged ground transportation service as defined
22 in section 28-141 for a predetermined fare.

23 54. "Traffic survival school" means a school that offers educational
24 sessions to drivers who are required to attend and successfully complete
25 educational sessions pursuant to this title that are designed to improve the
26 safety and habits of drivers and that are approved by the department.

27 55. "Trailer" means a vehicle that is with or without motive power,
28 other than a pole trailer, that is designed for carrying persons or property
29 and for being drawn by a motor vehicle and that is constructed so that no
30 part of its weight rests on the towing vehicle. A semitrailer equipped with
31 an auxiliary front axle commonly known as a dolly is deemed to be a trailer.
32 For the purposes of this paragraph, "pole trailer" has the same meaning
33 prescribed in section 28-601.

34 56. "TRANSPORTATION NETWORK COMPANY" HAS THE SAME MEANING PRESCRIBED
35 IN SECTION 41-2051.

36 57. "TRANSPORTATION NETWORK SERVICE" HAS THE SAME MEANING PRESCRIBED
37 IN SECTION 41-2051.

38 58. "TRANSPORTATION NETWORK VEHICLE" HAS THE SAME MEANING PRESCRIBED
39 IN SECTION 41-2051.

40 ~~56~~ 59. "Truck" means a motor vehicle designed or used primarily for
41 the carrying of property other than the effects of the driver or passengers

1 and includes a motor vehicle to which has been added a box, a platform or
2 other equipment for such carrying.

3 ~~57-~~ 60. "Truck tractor" means a motor vehicle that is designed and
4 used primarily for drawing other vehicles and that is not constructed to
5 carry a load other than a part of the weight of the vehicle and load drawn.

6 ~~58-~~ 61. "Vehicle" means a device in, on or by which a person or
7 property is or may be transported or drawn on a public highway, excluding
8 devices moved by human power or used exclusively on stationary rails or
9 tracks.

10 ~~59-~~ 62. "Vehicle transporter" means either:

11 (a) A truck tractor capable of carrying a load and drawing a
12 semitrailer.

13 (b) A truck tractor with a stinger-steered fifth wheel capable of
14 carrying a load and drawing a semitrailer or a truck tractor with a dolly
15 mounted fifth wheel that is securely fastened to the truck tractor at two or
16 more points and that is capable of carrying a load and drawing a semitrailer.

17 Sec. 4. Section 28-141, Arizona Revised Statutes, is amended to read:

18 28-141. Prearranged ground transportation; applicability;
19 definitions

20 A. The department shall not require a license or impose a fee on a
21 motor vehicle providing prearranged ground transportation service if the
22 motor carrier providing the service does all of the following:

23 1. Meets all applicable registration requirements for the interstate
24 transportation of passengers under the ICC termination act of 1995 (P.L.
25 104-88; 109 Stat. 879; 49 United States Code sections 13901 through 13908).

26 2. Meets all applicable vehicle and intrastate passenger licensing
27 requirements of the state in which the vehicle is domiciled or registered to
28 do business.

29 3. Provides the service pursuant to a contract for either of the
30 following:

31 (a) Transportation from this state, including intermediate stops, to a
32 destination in another state.

33 (b) Transportation from this state, including intermediate stops in
34 another state, to a destination in this state.

35 B. For the purposes of this section:

36 1. "Intermediate stop" means a pause in the transportation in order
37 for one or more passengers to engage in personal or business activity, but
38 only if the driver providing the transportation to the passenger does not,
39 before resuming the transportation of the passenger or at least one of the
40 passengers, provide transportation to any other person not included among the
41 passengers being transported when the pause began.

1 2. "Prearranged ground transportation service" means transportation
2 for a passenger or a group of passengers that is arranged in advance, ~~or~~ that
3 is operated on a regular route or between specified points OR THAT IS
4 ARRANGED THROUGH AN ONLINE-ENABLED APPLICATION OR PLATFORM.

5 Sec. 5. Section 41-2051, Arizona Revised Statutes, is amended to read:

6 41-2051. Definitions

7 In this chapter, unless the context otherwise requires:

8 1. "Biodiesel" means a diesel fuel substitute that is produced from
9 nonpetroleum renewable resources as defined by the United States
10 environmental protection agency and that meets the registration requirements
11 for fuels and fuel additives established by the United States environmental
12 protection agency pursuant to section 211 of the clean air act, as defined in
13 section 49-401.01.

14 2. "Biodiesel blend" means a motor fuel that is ~~comprised~~ COMPOSED of
15 biodiesel and diesel fuel and that is designated by the letter "B", followed
16 by the numeric value of the volume percentage of biodiesel in the blend.

17 3. "Biofuel" means a solid, liquid or gaseous fuel that is derived
18 from biomass and that can be used directly for heating or power or as a motor
19 fuel.

20 4. "Biofuel blend" means a motor fuel that is ~~comprised~~ COMPOSED of a
21 biofuel, that is combined with a petroleum based fuel and that is designated
22 by the volume percentage of biofuel in the blend.

23 5. "Biomass" means biological material, such as plant or animal
24 matter, excluding organic material that has been transformed by geological
25 processes into substances such as coal or petroleum or derivatives thereof,
26 that may be transformed into biofuel.

27 6. "Certification" means the process of determining the accuracy of a
28 commercial device to the standards of this state by a registered service
29 representative or the department.

30 7. "Commercial device" means any weighing, measuring, metering or
31 counting device that is used to determine the direct cost of things sold or
32 offered or exposed for sale, or used to establish a fee for service if the
33 cost is based on weight, measure or count, except that it does not include
34 those devices used for in-house packaging, inventory control or law
35 enforcement purposes.

36 8. "Commodity" means any merchandise, product or substance produced or
37 distributed for sale to or use by others.

38 9. "Correct" as used in connection with weights and measures means
39 conformance to all applicable requirements of this chapter.

40 10. "Department" means the department of weights and measures.

1 11. "Diesel fuel" means a refined middle distillate that is used as a
2 fuel in a compression-ignition internal combustion engine and that meets the
3 specifications of ASTM D975.

4 12. "Director" means the director of the department of weights and
5 measures.

6 13. "E85" means a fuel ethanol gasoline blend that meets the
7 specifications of ASTM D5798.

8 14. "Inspector" means state officials of the department of weights and
9 measures.

10 15. "Limousine" means a motor vehicle providing prearranged ground
11 transportation service for an individual passenger, or a group of passengers,
12 that is arranged in advance or is operated on a regular route or between
13 specified points and includes ground transportation under a contract or
14 agreement for services that includes a fixed rate or time and is provided in
15 a motor vehicle with a seating capacity not exceeding fifteen passengers,
16 including the driver.

17 16. "Liquid fuel measuring device" means any meter, pump, tank, gauge
18 or apparatus used for volumetrically determining the quantity of any internal
19 combustion engine fuel, liquefied petroleum gas or low-viscosity heating oil.

20 17. "Livery vehicle" means a motor vehicle that:

21 (a) Has a seating capacity not exceeding fifteen passengers, including
22 the driver.

23 (b) Provides passenger services for a fare determined by a flat rate
24 or flat hourly rate between geographic zones or within a geographic area.

25 (c) Is available for hire on an exclusive or shared-ride basis.

26 (d) May do any of the following:

27 (i) Operate on a regular route or between specified places.

28 (ii) Offer prearranged ground transportation service as defined in
29 section 28-141.

30 (iii) Offer on demand ground transportation service pursuant to a
31 contract with a public airport, licensed business entity or organization.

32 (e) IS NOT A TRANSPORTATION NETWORK VEHICLE.

33 18. "Misfuel" means the act of dispensing into the fuel tank of a
34 motor vehicle a motor fuel that was not intended to be used in the engine of
35 that motor vehicle.

36 19. "Motor fuel" means a petroleum or a petroleum-based substance that
37 is motor gasoline, aviation gasoline, number one or number two diesel fuel or
38 any grade of oxygenated gasoline typically used in the operation of a motor
39 engine, including biodiesel blends, biofuel blends and the ethanol blend E85
40 as defined in ASTM D5798.

1 20. "Package" means any commodity enclosed in a container or wrapped
2 in any manner in advance of sale in units suitable for either wholesale or
3 retail trade.

4 21. "Person" means both the plural and the singular, as the case
5 demands, and includes individuals, partnerships, corporations, companies,
6 societies and associations.

7 22. "Public weighmaster" means any person who is engaged in any of the
8 following:

9 (a) The business of weighing any object or thing for the public
10 generally for hire or for internal use and issuing for that weighing a weight
11 certificate intended to be accepted as an accurate weight ~~upon~~ ON which a
12 purchase or sale is to be based or on which a service fee is to be charged.

13 (b) The business of weighing for-hire motor vehicles, trailers or
14 semitrailers and issuing weight certificates intended to be accepted as an
15 accurate weight for the purpose of determining the amount of any tax, fee or
16 other assessment on the vehicles.

17 23. "Reference standards" means the physical standards of the state
18 that serve as the legal reference from which all other standards and weights
19 and measures are derived.

20 24. "Registered service agency" means any agency, firm, company or
21 corporation that for hire, award, commission or any other payment of any kind
22 installs, services, repairs or reconditions a commercial device or tests or
23 repairs vapor recovery systems or vapor recovery components and that has been
24 issued a license by the department.

25 25. "Registered service representative" means any individual who for
26 hire, award, commission or any other payment of any kind installs, services,
27 repairs or reconditions a commercial device or tests or repairs vapor
28 recovery systems or vapor recovery components and who has been issued a
29 license by the department.

30 26. "Retail seller" means a person whose business purpose is to sell,
31 expose or offer for sale or use any package or commodity by weight, measure
32 or count.

33 27. "Sale from bulk" means the sale of commodities when the quantity
34 is determined at the time of sale.

35 28. "Secondary standards" means the physical standards that are
36 traceable to the reference standards through comparisons, using acceptable
37 laboratory procedures, and that are used in the enforcement of weights and
38 measures laws and rules.

39 29. "Taxi" means a motor vehicle that has a seating capacity not
40 exceeding fifteen passengers, including the driver, that is registered as a

1 taxi in this state or any other state, that provides passenger services and
2 that:

3 (a) Does not primarily operate on a regular route or between specified
4 places.

5 (b) Offers local transportation for a fare determined on the basis of
6 the distance traveled or prearranged ground transportation service as defined
7 in section 28-141 for a predetermined fare.

8 (c) IS NOT A TRANSPORTATION NETWORK VEHICLE.

9 30. "Taxi meter" means a commercial device that meets the requirements
10 of the national institute of standards and technology handbook 44 as
11 prescribed by section 41-2064.

12 31. "TRANSPORTATION NETWORK COMPANY" MEANS A COMPANY THAT PROVIDES
13 PREARRANGED GROUND TRANSPORTATION SERVICES FOR COMPENSATION, DONATION OR TIPS
14 USING AN ONLINE-ENABLED APPLICATION OR PLATFORM.

15 32. "TRANSPORTATION NETWORK SERVICE" MEANS THE PROVISION OF A
16 TRANSPORTATION SERVICE BY A PARTICIPATING DRIVER THROUGH A TRANSPORTATION
17 NETWORK.

18 33. "TRANSPORTATION NETWORK VEHICLE" MEANS A VEHICLE THAT IS USED BY A
19 PARTICIPATING DRIVER TO PROVIDE TRANSPORTATION NETWORK SERVICES, THAT HAS AT
20 LEAST FOUR DOORS AND THAT IS DESIGNED TO CARRY NOT MORE THAN EIGHT
21 PASSENGERS, INCLUDING THE DRIVER.

22 ~~31.~~ 34. "Weight" as used in connection with any commodity means net
23 weight.

24 ~~32.~~ 35. "Weights" or "measures", or both, means all weights,
25 measures, meters or counters of every kind, instruments and devices for
26 weighing, measuring, metering or counting and any appliance and accessories
27 associated with any or all such instruments and devices."

28 Amend title to conform

KAREN FANN

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ARIZONA HOUSE OF REPRESENTATIVES
Fifty-second Legislature - First Regular Session

ROLL CALL VOTE

COMMITTEE ON _____ INSURANCE _____ BILL NO. HB 2135

DATE February 18, 2015 MOTION: DPA S/E

	PASS	AYE	NAY	PRESENT	ABSENT
Mr. Coleman		✓			
Mr. Larkin		✓			
Mr. Lovas		✓			
Ms. McCune Davis			✓		
Ms. Otondo		✓			
Mr. Robson					✓
Mr. Livingston, Vice-Chairman		✓			
Ms. Fann, Chairman		✓			
		6	1	0	1

APPROVED:

Karen Fann Chairman
 KAREN FANN, Chairman
 DAVID LIVINGSTON, Vice-Chairman

David Livingston
 COMMITTEE SECRETARY

ATTACHMENT 4



HOUSE OF REPRESENTATIVES

HB 2352

credit for reinsurance

Sponsors: Representative Fann

X Committee on Insurance

Caucus and COW

House Engrossed

OVERVIEW

HB 2352 makes revisions to statute relating to credit for reinsurance.

Summary of the Proposed Strike-Everything Amendment to HB 2352

The proposed strike-everything amendment HB 2352 adopts the credit for reinsurance model law developed by the National Association of Insurance Commissioners (NAIC).

HISTORY

The NAIC is an organization created and governed by the chief insurance regulators of the 50 states, the District of Columbia, and five U.S. territories. The mission of the NAIC is to assist state insurance regulators, individually and collectively, in serving the public interest and achieving fundamental insurance regulatory goals in a responsive, efficient, and cost effective manner, consistent with the wishes of its members. Through the NAIC, state insurance regulators establish standards and best practices, conduct peer review, and coordinate their regulatory oversight.

In 2008 the NAIC initially adopted the Reinsurance Regulatory Modernization Framework Proposal. NAIC recommended that this framework be implemented through federal legislation in order to preserve and improve stat-based regulation of reinsurance, ensure timely and uniform implementation throughout all NAIC member jurisdictions, and as a more comprehensive alternative to related federal legislation. NAIC also provided changes for state legislatures to establish requirements, under which state would regulate qualified reinsurers, and also to consider reinsurance risk diversification and notice requirements for ceding insurers.

Pursuant to Arizona Revised Statutes § 20-261.01, a domestic ceding insurer is allowed a credit for reinsurance as an asset to or a deduction from liability on account of reinsurance ceded if the reinsurer satisfies requirements as outlined in statute.

PROVISIONS

Credit for Reinsurance

1. Permits a domestic ceding insurer a credit for reinsurance as either an asset or a reduction from liability on account of reinsurance ceded only when the requirements as outlined in the act have been met.
2. Stipulates credit shall be allowed when the reinsurance is ceded to an assuming insurer that meets any of the following conditions:
 - a. Is licensed to transact insurance or reinsurance in this state.

- b. Is accredited by the director of the Department of Insurance (Director) as a reinsurer in this state and provides eligibility for accreditation requirements.
 - c. Is domiciled in, or is a United States (U.S.) branch of an alien assuming insurer that entered through, a state that employs standards regarding credit for reinsurance substantially similar those applicable under this act and the assuming insurer:
 - i. Maintains a surplus in an amount not less than \$20 million, and
 - ii. Submits to examinations of its books and records.
 - d. Maintains a trust fund in a qualified U.S. financial institution for the payment of valid claims of its U.S. ceding insurers, their assigns, and successors in interest.
 - i. Requires the insurer to report annually to the Director information substantially the same as that required to be reported in the NAIC annual statement form by licensed insurers.
 - e. Has been certified by the Director as a reinsurer in this state and that secures its obligation in accordance with statute, and outlines the requirements for certification.
3. Applies additional requirements to the trust that is maintained by an assuming insurer:
- a. Requires the form of the trust or any amendments to the trust to be approved by the director of commissioner of the state where the trust is domiciled or by the director or commissioner of another state who has accepted principal regulatory oversight of the trust.
 - b. Requires the form of the trust to be filed with the director of every state in which the ceding insurer beneficiaries of the trust are domiciled.
 - c. States the trust must provide that contested claims shall be valid and enforceable, must vest legal title to its assets in its trustees, and be subject to examination by the Director.
 - d. Stipulates that the trust must remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust and directs the trustee to report to the Director the annual balance of the trust and a list of investments.
 - e. States the trust for a single assuming insurer must consist of funds in the trust in an amount which covers all the liabilities attributable to the reinsurance ceded and must maintain a trusteed surplus of at least \$20 million, with exception.
 - f. Specifies that at any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the director with principal oversight may authorize a reduction in the required trusteed surplus, if upon determining that the new required surplus level is adequate for protection.
 - g. Specifies that in a group including incorporated and individual unincorporated underwriters:
 - i. The trust must cover all liabilities for reinsurance ceded under reinsurance agreements on or after January 1, 1993.
 - ii. The trust must cover the respective underwriters' several insurance and reinsurance liabilities for reinsurance ceded under reinsurance agreements on or before December 31, 1992.
 - iii. Requires the group to maintain a trusteed surplus of which \$100 million is held jointly.

- iv. Prohibits the group members from engaging in any business other than underwriting as a member of the group.
- v. Requires the group to provide to the Director, within 90 days after its financial statements are due, an annual certification by the group's domiciliary regulator of the solvency of each underwriter member of the group.
- h. States a group of incorporated underwriters under common administration must:
 - i. Have continuously transacted an insurance business outside the U.S. for at least three years immediately before making application for accreditation.
 - ii. Maintain aggregate policyholders' surplus of at least \$10 billion.
 - iii. Maintain a trust fund which covers the group's several liabilities attributable to business ceded by U.S. domiciled ceding insurers.
 - iv. Maintain a joint trusteed surplus of which \$100 million is held jointly.
 - v. Make available to the Director an annual certification of each underwriter member's solvency and financial statements, within 90 days after its financial statements are due.
- 4. Requires the Director to create and publish a list of qualified jurisdictions, under which an assuming insurer is eligible to be considered for certification, and outlines further responsibilities of the Director with regards to: 1) determining a qualified jurisdiction, 2) suspension of certification, and 3) rating each certified reinsurer.
- 5. Directs a certified reinsurer to secure obligations assumed from U.S. ceding insurers at a level consistent with its rating, and provides further responsibilities for certified reinsurers.
- 6. Permits credit when the reinsurance is ceded to an assuming insurer that does not meet the requirements as set forth in the act, only as to the insurance of risks located in jurisdictions where the reinsurance is required of that jurisdiction.
- 7. Prohibits certain credit from an assuming insurer that is not licensed, accredited, or certified to transact insurance or reinsurance, unless the assuming insurer agrees in the reinsurance agreements to all of the following:
 - a. To submit to the jurisdiction of any court of competent jurisdiction.
 - b. To designate the Director or a designated attorney as its true and lawful attorney.
- 8. States the exemption granted to an unlicensed assuming insurer is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes.
- 9. Stipulates that if the assuming insurer does not meet specified requirements for a certain credit, that credit is not permissible unless the assuming insurer agrees in the trust agreements to following specified conditions as outlined in the act.
- 10. Authorizes the Director to suspend or revoke the reinsurer's accreditation and certification and outlines the procedures for suspension or revocation.
- 11. Provides procedures for a ceding insurer's concentration risk, with regards to reinsurance recoverables and diversify its reinsurance program.

Asset or Reduction from Liability

12. Permits an asset or a reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer that does not meet the requirements for credit for reinsurance in an amount not exceeding the liabilities carried by the ceding insurer.
13. Specifies that reduction to be in the amount of funds held by or on behalf of the ceding insurer under a reinsurance contact with the assuming insurer as security for the payment of obligations.
14. Outlines the acceptable forms of security.

Miscellaneous

15. States the requirements for credit for reinsurance as outlined in this act apply to all cessions after the effective date of this act under reinsurance agreements that have an inception, anniversary or renewal date that is not less than six months after the effective date of this act.
16. Authorizes the Director to adopt rules pursuant to statute to implement the provisions relating to credit for reinsurance.
17. Exempts the Department of Insurance from rulemaking requirements for two years for the purposes of implementing the provisions of this act.

PROPOSED
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2352
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 20-261.03, Arizona Revised Statutes, is amended to
3 read:

4 20-261.03. Qualified United States financial institution;
5 definitions

6 A. For the purposes of section 20-261.02, subsection B AND SECTION
7 20-261.06, SUBSECTION B, "qualified United States financial institution"
8 means an institution that:

9 1. Is organized, or in the case of a United States office of a foreign
0 banking organization, licensed, under the laws of the United States or any
11 state of the United States.

12 2. Is regulated, supervised and examined by federal or state
13 authorities having regulatory authority over banks and trust companies.

14 3. According to the director of insurance or the securities valuation
15 office of the national association of insurance commissioners, meets the
16 standards of financial condition and standing that are considered necessary
17 and appropriate to regulate the quality of financial institutions whose
18 letters of credit will be acceptable to the director.

19 B. For the purposes of this article, except for the purposes of
20 section 20-261.02, subsection B AND SECTION 20-261.06, SUBSECTION B,
21 "qualified United States financial institution" means an institution that:

22 1. Is organized, or in the case of a United States branch or agency
23 office of a foreign banking organization, licensed, under the laws of the
24 United States or any state of the United States that has been granted
25 authority to operate with fiduciary powers.

Adopted <input checked="" type="checkbox"/>	# of Verbals _____
Failed _____	Withdrawn _____
Not Offered _____	Analysts Initials _____

1 2. Is regulated, supervised and examined by federal or state
2 authorities having regulatory authority over banks and trust companies.

3 Sec. 2. Title 20, chapter 2, article 2, Arizona Revised Statutes, is
4 amended by adding sections 20-261.05, 20-261.06, 20-261.07 and 20-261.08, to
5 read:

6 20-261.05. Credit for reinsurance

7 A. A DOMESTIC CEDING INSURER SHALL BE ALLOWED CREDIT FOR REINSURANCE
8 AS EITHER AN ASSET OR A REDUCTION FROM LIABILITY ON ACCOUNT OF REINSURANCE
9 CEDED ONLY WHEN THE REINSURER MEETS THE REQUIREMENTS OF SUBSECTION B, C, D,
10 E, F OR G OF THIS SECTION. CREDIT SHALL BE ALLOWED UNDER SUBSECTION B, C OR
11 D OF THIS SECTION ONLY FOR CESSIONS OF THOSE KINDS OR CLASSES OF BUSINESS
12 THAT THE ASSUMING INSURER IS LICENSED OR OTHERWISE PERMITTED TO WRITE OR
13 ASSUME IN ITS STATE OF DOMICILE OR, IN THE CASE OF A UNITED STATES BRANCH OF
14 AN ALIEN ASSUMING INSURER, IN THE STATE THROUGH WHICH IT IS ENTERED AND
15 LICENSED TO TRANSACT INSURANCE OR REINSURANCE. CREDIT SHALL BE ALLOWED UNDER
16 SUBSECTION D OR E OF THIS SECTION ONLY IF THE APPLICABLE REQUIREMENTS OF
17 SUBSECTION H OF THIS SECTION HAVE BEEN SATISFIED.

18 B. CREDIT SHALL BE ALLOWED WHEN THE REINSURANCE IS CEDED TO AN
19 ASSUMING INSURER THAT IS LICENSED TO TRANSACT INSURANCE OR REINSURANCE IN
20 THIS STATE.

21 C. CREDIT SHALL BE ALLOWED WHEN THE REINSURANCE IS CEDED TO AN
22 ASSUMING INSURER THAT IS ACCREDITED BY THE DIRECTOR AS A REINSURER IN THIS
23 STATE. IN ORDER TO BE ELIGIBLE FOR ACCREDITATION, A REINSURER MUST:

24 1. FILE WITH THE DIRECTOR EVIDENCE OF ITS SUBMISSION TO THIS STATE'S
25 JURISDICTION.

26 2. SUBMIT TO THIS STATE'S AUTHORITY TO EXAMINE ITS BOOKS AND RECORDS.

27 3. BE LICENSED TO TRANSACT INSURANCE OR REINSURANCE IN AT LEAST ONE
28 STATE, OR IN THE CASE OF A UNITED STATES BRANCH OF AN ALIEN ASSUMING INSURER,
29 BE ENTERED THROUGH AND LICENSED TO TRANSACT INSURANCE OR REINSURANCE IN AT
30 LEAST ONE STATE.

1 4. FILE ANNUALLY WITH THE DIRECTOR A COPY OF ITS ANNUAL STATEMENT
2 FILED WITH THE INSURANCE DEPARTMENT OF ITS STATE OF DOMICILE AND A COPY OF
3 ITS MOST RECENT AUDITED FINANCIAL STATEMENT.

4 5. DEMONSTRATE TO THE SATISFACTION OF THE DIRECTOR THAT IT HAS
5 ADEQUATE FINANCIAL CAPACITY TO MEET ITS REINSURANCE OBLIGATIONS AND IS
6 OTHERWISE QUALIFIED TO ASSUME REINSURANCE FROM A DOMESTIC INSURER. AN
7 ASSUMING INSURER IS DEEMED TO MEET THIS REQUIREMENT AS OF THE TIME OF ITS
8 APPLICATION IF IT MAINTAINS A SURPLUS AS REGARDS POLICYHOLDERS IN AN AMOUNT
9 NOT LESS THAN TWENTY MILLION DOLLARS AND THE DIRECTOR HAS NOT DENIED ITS
10 ACCREDITATION WITHIN NINETY DAYS AFTER SUBMISSION OF ITS APPLICATION.

11 D. CREDIT SHALL BE ALLOWED WHEN THE REINSURANCE IS CEDED TO AN
12 ASSUMING INSURER THAT IS DOMICILED IN, OR IN THE CASE OF A UNITED STATES
13 BRANCH OF AN ALIEN ASSUMING INSURER IS ENTERED THROUGH, A STATE THAT EMPLOYS
14 STANDARDS REGARDING CREDIT FOR REINSURANCE SUBSTANTIALLY SIMILAR TO THOSE
15 APPLICABLE UNDER THIS SECTION AND THE ASSUMING INSURER OR UNITED STATES
16 BRANCH OF AN ALIEN ASSUMING INSURER DOES BOTH OF THE FOLLOWING:

17 1. MAINTAINS A SURPLUS AS REGARDS POLICYHOLDERS IN AN AMOUNT NOT LESS
18 THAN TWENTY MILLION DOLLARS. THIS REQUIREMENT DOES NOT APPLY TO REINSURANCE
19 CEDED AND ASSUMED PURSUANT TO POOLING ARRANGEMENTS AMONG INSURERS IN THE SAME
20 HOLDING COMPANY SYSTEM.

21 2. SUBMITS TO THE AUTHORITY OF THIS STATE TO EXAMINE ITS BOOKS AND
22 RECORDS.

23 E. CREDIT SHALL BE ALLOWED WHEN THE REINSURANCE IS CEDED TO AN
24 ASSUMING INSURER THAT MAINTAINS A TRUST FUND IN A QUALIFIED UNITED STATES
25 FINANCIAL INSTITUTION, AS DEFINED IN SECTION 20-261.03, SUBSECTION B, FOR THE
26 PAYMENT OF VALID CLAIMS OF ITS UNITED STATES CEDING INSURERS, THEIR ASSIGNS
27 AND SUCCESSORS IN INTEREST. TO ENABLE THE DIRECTOR TO DETERMINE THE
28 SUFFICIENCY OF THE TRUST FUND, THE ASSUMING INSURER SHALL REPORT ANNUALLY TO
29 THE DIRECTOR INFORMATION SUBSTANTIALLY THE SAME AS THAT REQUIRED TO BE
30 REPORTED IN THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS ANNUAL
1 STATEMENT FORM BY LICENSED INSURERS. THE ASSUMING INSURER SHALL SUBMIT TO

1 EXAMINATION OF ITS BOOKS AND RECORDS BY THE DIRECTOR AND ASSUME THE EXPENSE
2 OF EXAMINATION. THE FOLLOWING PROVISIONS ALSO APPLY TO THE TRUST:

3 1. CREDIT FOR REINSURANCE SHALL NOT BE GRANTED UNDER THIS SUBSECTION
4 UNLESS THE FORM OF THE TRUST AND ANY AMENDMENTS TO THE TRUST HAVE BEEN
5 APPROVED BY ONE OF THE FOLLOWING:

6 (a) THE DIRECTOR OR COMMISSIONER OF THE STATE WHERE THE TRUST IS
7 DOMICILED.

8 (b) THE DIRECTOR OR COMMISSIONER OF ANOTHER STATE WHO, PURSUANT TO THE
9 TERMS OF THE TRUST INSTRUMENT, HAS ACCEPTED PRINCIPAL REGULATORY OVERSIGHT OF
10 THE TRUST.

11 2. THE FORM OF THE TRUST AND ANY TRUST AMENDMENTS SHALL BE FILED WITH
12 THE DIRECTOR OF EVERY STATE IN WHICH THE CEDING INSURER BENEFICIARIES OF THE
13 TRUST ARE DOMICILED. THE TRUST INSTRUMENT SHALL PROVIDE THAT CONTESTED
14 CLAIMS SHALL BE VALID AND ENFORCEABLE ON THE FINAL ORDER OF ANY COURT OF
15 COMPETENT JURISDICTION IN THE UNITED STATES. THE TRUST SHALL VEST LEGAL
16 TITLE TO ITS ASSETS IN ITS TRUSTEES FOR THE BENEFIT OF THE ASSUMING INSURER'S
17 UNITED STATES CEDING INSURERS, THEIR ASSIGNS AND SUCCESSORS IN INTEREST. THE
18 TRUST AND THE ASSUMING INSURER SHALL BE SUBJECT TO EXAMINATION AS DETERMINED
19 BY THE DIRECTOR.

20 3. THE TRUST SHALL REMAIN IN EFFECT FOR AS LONG AS THE ASSUMING
21 INSURER HAS OUTSTANDING OBLIGATIONS DUE UNDER THE REINSURANCE AGREEMENTS
22 SUBJECT TO THE TRUST. ON OR BEFORE FEBRUARY 28 OF EACH YEAR THE TRUSTEE OF
23 THE TRUST SHALL REPORT TO THE DIRECTOR IN WRITING THE BALANCE OF THE TRUST
24 AND A LIST OF THE TRUST'S INVESTMENTS AT THE PRECEDING YEAR END AND SHALL
25 CERTIFY THE DATE OF TERMINATION OF THE TRUST, IF SO PLANNED, OR CERTIFY THAT
26 THE TRUST WILL NOT EXPIRE BEFORE THE FOLLOWING DECEMBER 31.

27 4. THE TRUST FUND FOR A SINGLE ASSUMING INSURER SHALL CONSIST OF FUNDS
28 IN TRUST IN AN AMOUNT NOT LESS THAN THE ASSUMING INSURER'S LIABILITIES
29 ATTRIBUTABLE TO REINSURANCE CEDED BY UNITED STATES CEDING INSURERS AND,
30 EXCEPT AS PROVIDED IN PARAGRAPH 5 OF THIS SUBSECTION, THE ASSUMING INSURER
31 SHALL MAINTAIN A TRUSTEED SURPLUS OF NOT LESS THAN TWENTY MILLION DOLLARS.

1 5. AT ANY TIME AFTER THE ASSUMING INSURER HAS PERMANENTLY DISCONTINUED
2 UNDERWRITING NEW BUSINESS SECURED BY THE TRUST FOR AT LEAST THREE FULL YEARS,
3 THE DIRECTOR WITH PRINCIPAL REGULATORY OVERSIGHT OVER THE TRUST MAY AUTHORIZE
4 A REDUCTION IN THE REQUIRED TRUSTEED SURPLUS, BUT ONLY AFTER A FINDING, BASED
5 ON AN ASSESSMENT OF THE RISK, THAT THE NEW REQUIRED SURPLUS LEVEL IS ADEQUATE
6 FOR THE PROTECTION OF UNITED STATES CEDING INSURERS, POLICYHOLDERS AND
7 CLAIMANTS IN LIGHT OF REASONABLY FORESEEABLE ADVERSE LOSS DEVELOPMENT. THE
8 RISK ASSESSMENT MAY INVOLVE AN ACTUARIAL REVIEW, INCLUDING AN INDEPENDENT
9 ANALYSIS OF RESERVES AND CASH FLOWS, AND SHALL CONSIDER ALL MATERIAL RISK
10 FACTORS, INCLUDING, WHEN APPLICABLE, THE LINES OF BUSINESS INVOLVED, THE
11 STABILITY OF THE INCURRED LOSS ESTIMATES AND THE EFFECT OF THE SURPLUS
12 REQUIREMENTS ON THE ASSUMING INSURER'S LIQUIDITY OR SOLVENCY. THE MINIMUM
13 REQUIRED TRUSTEED SURPLUS MAY NOT BE REDUCED TO AN AMOUNT LESS THAN THIRTY
14 PERCENT OF THE ASSUMING INSURER'S LIABILITIES ATTRIBUTABLE TO REINSURANCE
15 CEDED BY UNITED STATES CEDING INSURERS COVERED BY THE TRUST.

16 6. IN THE CASE OF A GROUP INCLUDING INCORPORATED AND INDIVIDUAL
17 UNINCORPORATED UNDERWRITERS:

18 (a) FOR REINSURANCE CEDED UNDER REINSURANCE AGREEMENTS WITH AN
19 INCEPTION AMENDMENT OR RENEWAL DATE ON OR AFTER JANUARY 1, 1993, THE TRUST
20 SHALL CONSIST OF A TRUSTEED ACCOUNT IN AN AMOUNT NOT LESS THAN THE RESPECTIVE
21 UNDERWRITERS' SEVERAL LIABILITIES ATTRIBUTABLE TO BUSINESS CEDED BY UNITED
22 STATES DOMICILED CEDING INSURERS TO ANY UNDERWRITER OF THE GROUP.

23 (b) FOR REINSURANCE CEDED UNDER REINSURANCE AGREEMENTS WITH AN
24 INCEPTION DATE ON OR BEFORE DECEMBER 31, 1992, AND NOT AMENDED OR RENEWED
25 AFTER THAT DATE, NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION OR
26 SECTIONS 20-261.03, 20-261.06 AND 20-261.07, THE TRUST SHALL CONSIST OF A
27 TRUSTEED ACCOUNT IN AN AMOUNT NOT LESS THAN THE RESPECTIVE UNDERWRITERS'
28 SEVERAL INSURANCE AND REINSURANCE LIABILITIES ATTRIBUTABLE TO BUSINESS
29 WRITTEN IN THE UNITED STATES.

30 (c) IN ADDITION TO THE TRUSTS SET FORTH IN SUBDIVISIONS (a) AND (b) OF
31 THIS PARAGRAPH, THE GROUP SHALL MAINTAIN IN TRUST A TRUSTEED SURPLUS OF WHICH
32 ONE HUNDRED MILLION DOLLARS SHALL BE HELD JOINTLY FOR THE BENEFIT OF THE

1 UNITED STATES DOMICILED CEDING INSURERS OF ANY MEMBER OF THE GROUP FOR ALL
2 YEARS OF ACCOUNT.

3 (d) THE INCORPORATED MEMBERS OF THE GROUP SHALL NOT BE ENGAGED IN ANY
4 BUSINESS OTHER THAN UNDERWRITING AS A MEMBER OF THE GROUP AND SHALL BE
5 SUBJECT TO THE SAME LEVEL OF REGULATION AND SOLVENCY CONTROL BY THE GROUP'S
6 DOMICILIARY REGULATOR AS ARE THE UNINCORPORATED MEMBERS.

7 (e) WITHIN NINETY DAYS AFTER ITS FINANCIAL STATEMENTS ARE DUE TO BE
8 FILED WITH THE GROUP'S DOMICILIARY REGULATOR, THE GROUP SHALL PROVIDE TO THE
9 DIRECTOR AN ANNUAL CERTIFICATION BY THE GROUP'S DOMICILIARY REGULATOR OF THE
10 SOLVENCY OF EACH UNDERWRITER MEMBER OR, IF A CERTIFICATION IS UNAVAILABLE,
11 FINANCIAL STATEMENTS, PREPARED BY INDEPENDENT PUBLIC ACCOUNTANTS, OF EACH
12 UNDERWRITER MEMBER OF THE GROUP.

13 7. IN THE CASE OF A GROUP OF INCORPORATED UNDERWRITERS UNDER COMMON
14 ADMINISTRATION, THE GROUP SHALL MEET THE FOLLOWING REQUIREMENTS:

15 (a) HAVE CONTINUOUSLY TRANSACTED AN INSURANCE BUSINESS OUTSIDE THE
16 UNITED STATES FOR AT LEAST THREE YEARS IMMEDIATELY BEFORE MAKING APPLICATION
17 FOR ACCREDITATION.

18 (b) MAINTAIN AGGREGATE POLICYHOLDERS' SURPLUS OF AT LEAST TEN BILLION
19 DOLLARS.

20 (c) MAINTAIN A TRUST FUND IN AN AMOUNT NOT LESS THAN THE GROUP'S
21 SEVERAL LIABILITIES ATTRIBUTABLE TO BUSINESS CEDED BY UNITED STATES DOMICILED
22 CEDING INSURERS TO ANY MEMBER OF THE GROUP PURSUANT TO REINSURANCE CONTRACTS
23 ISSUED IN THE NAME OF THE GROUP.

24 (d) MAINTAIN A JOINT TRUSTEED SURPLUS OF WHICH ONE HUNDRED MILLION
25 DOLLARS SHALL BE HELD JOINTLY FOR THE BENEFIT OF UNITED STATES DOMICILED
26 CEDING INSURERS OF ANY MEMBER OF THE GROUP AS ADDITIONAL SECURITY FOR THESE
27 LIABILITIES.

28 (e) WITHIN NINETY DAYS AFTER ITS FINANCIAL STATEMENTS ARE DUE TO BE
29 FILED WITH THE GROUP'S DOMICILIARY REGULATOR, MAKE AVAILABLE TO THE DIRECTOR
30 AN ANNUAL CERTIFICATION OF EACH UNDERWRITER MEMBER'S SOLVENCY BY THE MEMBER'S
31 DOMICILIARY REGULATOR AND FINANCIAL STATEMENTS OF EACH UNDERWRITER MEMBER OF
32 THE GROUP PREPARED BY ITS INDEPENDENT PUBLIC ACCOUNTANT.

1 F. CREDIT SHALL BE ALLOWED WHEN THE REINSURANCE IS CEDED TO AN
2 ASSUMING INSURER THAT HAS BEEN CERTIFIED BY THE DIRECTOR AS A REINSURER IN
3 THIS STATE AND THAT SECURES ITS OBLIGATIONS IN ACCORDANCE WITH THE
4 REQUIREMENTS OF THIS SUBSECTION. IN ORDER TO BE ELIGIBLE FOR CERTIFICATION,
5 THE ASSUMING INSURER SHALL MEET THE FOLLOWING REQUIREMENTS:

6 1. THE ASSUMING INSURER MUST BE DOMICILED AND LICENSED TO TRANSACT
7 INSURANCE OR REINSURANCE IN A QUALIFIED JURISDICTION, AS DETERMINED BY THE
8 DIRECTOR PURSUANT TO SUBSECTION G OF THIS SECTION.

9 2. THE ASSUMING INSURER MUST MAINTAIN CAPITAL AND SURPLUS, OR ITS
10 EQUIVALENT, IN AN AMOUNT TO BE DETERMINED BY THE DIRECTOR BY RULE.

11 3. THE ASSUMING INSURER MUST MAINTAIN FINANCIAL STRENGTH RATINGS FROM
12 TWO OR MORE RATING AGENCIES DEEMED ACCEPTABLE BY THE DIRECTOR BY RULE.

13 4. THE ASSUMING INSURER MUST AGREE TO SUBMIT TO THE JURISDICTION OF
14 THIS STATE, APPOINT THE DIRECTOR AS ITS AGENT FOR SERVICE OF PROCESS IN THIS
15 STATE AND AGREE TO PROVIDE SECURITY FOR ONE HUNDRED PERCENT OF THE ASSUMING
16 INSURER'S LIABILITIES ATTRIBUTABLE TO REINSURANCE CEDED BY UNITED STATES
17 CEDING INSURERS IF THE ASSUMING INSURER RESISTS ENFORCEMENT OF A FINAL UNITED
18 STATES JUDGMENT.

19 5. THE ASSUMING INSURER MUST AGREE TO MEET APPLICABLE INFORMATION
20 FILING REQUIREMENTS AS DETERMINED BY THE DIRECTOR, BOTH WITH RESPECT TO ITS
21 INITIAL APPLICATION FOR CERTIFICATION AND ON AN ONGOING BASIS.

22 6. THE ASSUMING INSURER MUST SATISFY ANY OTHER REQUIREMENTS FOR
23 CERTIFICATION DEEMED RELEVANT BY THE DIRECTOR.

24 7. IN ADDITION TO SATISFYING THE REQUIREMENTS OF PARAGRAPHS 1, 2, 3,
25 4, 5 AND 6 OF THIS SUBSECTION, FOR AN ASSOCIATION INCLUDING INCORPORATED AND
26 INDIVIDUAL UNINCORPORATED UNDERWRITERS TO BE ELIGIBLE FOR CERTIFICATION THE
27 ASSOCIATION MUST MEET THE FOLLOWING REQUIREMENTS:

28 (a) THE ASSOCIATION SHALL SATISFY ITS MINIMUM CAPITAL AND SURPLUS
29 REQUIREMENTS THROUGH THE CAPITAL AND SURPLUS EQUIVALENTS, NET OF LIABILITIES,
30 OF THE ASSOCIATION AND ITS MEMBERS, WHICH SHALL INCLUDE A JOINT CENTRAL FUND
31 THAT MAY BE APPLIED TO ANY UNSATISFIED OBLIGATION OF THE ASSOCIATION OR ANY

1 OF ITS MEMBERS, IN AN AMOUNT DETERMINED BY THE DIRECTOR TO PROVIDE ADEQUATE
2 PROTECTION.

3 (b) THE INCORPORATED MEMBERS OF THE ASSOCIATION SHALL NOT BE ENGAGED
4 IN ANY BUSINESS OTHER THAN UNDERWRITING AS A MEMBER OF THE ASSOCIATION AND
5 SHALL BE SUBJECT TO THE SAME LEVEL OF REGULATION AND SOLVENCY CONTROL BY THE
6 ASSOCIATION'S DOMICILIARY REGULATOR AS ARE THE UNINCORPORATED MEMBERS.

7 (c) WITHIN NINETY DAYS AFTER ITS FINANCIAL STATEMENTS ARE DUE TO BE
8 FILED WITH THE ASSOCIATION'S DOMICILIARY REGULATOR, THE ASSOCIATION SHALL
9 PROVIDE TO THE DIRECTOR AN ANNUAL CERTIFICATION BY THE ASSOCIATION'S
10 DOMICILIARY REGULATOR OF THE SOLVENCY OF EACH UNDERWRITER MEMBER OR, IF A
11 CERTIFICATION IS UNAVAILABLE, FINANCIAL STATEMENTS PREPARED BY INDEPENDENT
12 PUBLIC ACCOUNTANTS OF EACH UNDERWRITER MEMBER OF THE ASSOCIATION.

13 G. THE DIRECTOR SHALL CREATE AND PUBLISH A LIST OF QUALIFIED
14 JURISDICTIONS, UNDER WHICH AN ASSUMING INSURER LICENSED AND DOMICILED IN SUCH
15 JURISDICTION IS ELIGIBLE TO BE CONSIDERED FOR CERTIFICATION BY THE DIRECTOR
16 AS A CERTIFIED REINSURER. IN ADDITION, THE DIRECTOR SHALL:

17 1. IN ORDER TO DETERMINE WHETHER THE DOMICILIARY JURISDICTION OF A
18 NON-UNITED STATES ASSUMING INSURER IS ELIGIBLE TO BE RECOGNIZED AS A
19 QUALIFIED JURISDICTION, EVALUATE THE APPROPRIATENESS AND EFFECTIVENESS OF THE
20 REINSURANCE SUPERVISORY SYSTEM OF THE JURISDICTION, BOTH INITIALLY AND ON AN
21 ONGOING BASIS, AND CONSIDER THE RIGHTS, BENEFITS AND EXTENT OF RECIPROCAL
22 RECOGNITION AFFORDED BY THE NON-UNITED STATES JURISDICTION TO REINSURERS
23 LICENSED AND DOMICILED IN THE UNITED STATES. A QUALIFIED JURISDICTION MUST
24 AGREE TO SHARE INFORMATION AND COOPERATE WITH THE DIRECTOR WITH RESPECT TO
25 ALL CERTIFIED REINSURERS DOMICILED WITHIN THAT JURISDICTION. A JURISDICTION
26 MAY NOT BE RECOGNIZED AS A QUALIFIED JURISDICTION IF THE DIRECTOR HAS
27 DETERMINED THAT THE JURISDICTION DOES NOT ADEQUATELY AND PROMPTLY ENFORCE
28 FINAL UNITED STATES JUDGMENTS AND ARBITRATION AWARDS. ADDITIONAL FACTORS MAY
29 BE CONSIDERED IN THE DISCRETION OF THE DIRECTOR.

30 2. CONSIDER THE LIST OF QUALIFIED JURISDICTIONS PUBLISHED THROUGH THE
31 NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS COMMITTEE PROCESS IN
32 DETERMINING QUALIFIED JURISDICTIONS. IF THE DIRECTOR APPROVES A JURISDICTION

1 AS QUALIFIED THAT DOES NOT APPEAR ON THE LIST OF QUALIFIED JURISDICTIONS
2 PUBLISHED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, THE
3 DIRECTOR SHALL PROVIDE THOROUGHLY DOCUMENTED JUSTIFICATION IN ACCORDANCE WITH
4 CRITERIA TO BE DEVELOPED BY RULE.

5 3. RECOGNIZE UNITED STATES JURISDICTIONS THAT MEET THE REQUIREMENT FOR
6 ACCREDITATION UNDER THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS
7 FINANCIAL STANDARDS AND ACCREDITATION PROGRAM AS QUALIFIED JURISDICTIONS.

8 4. HAVE THE DISCRETION TO SUSPEND THE REINSURER'S CERTIFICATION
9 INDEFINITELY, IN LIEU OF REVOCATION, IF A CERTIFIED REINSURER'S DOMICILIARY
10 JURISDICTION CEASES TO BE A QUALIFIED JURISDICTION.

11 5. ASSIGN A RATING TO EACH CERTIFIED REINSURER, GIVING DUE
12 CONSIDERATION TO THE FINANCIAL STRENGTH RATINGS THAT HAVE BEEN ASSIGNED BY
13 RATING AGENCIES DEEMED ACCEPTABLE TO THE DIRECTOR BY RULE AND PUBLISH A LIST
14 OF ALL CERTIFIED REINSURERS AND THEIR RATINGS.

15 H. A CERTIFIED REINSURER SHALL SECURE OBLIGATIONS ASSUMED FROM UNITED
16 STATES CEDING INSURERS UNDER SUBSECTION F OF THIS SECTION AT A LEVEL
17 CONSISTENT WITH ITS RATING, AS SPECIFIED BY RULE. THE FOLLOWING PROVISIONS
18 APPLY TO CERTIFIED REINSURERS:

19 1. IN ORDER FOR A DOMESTIC CEDING INSURER TO QUALIFY FOR FULL
20 FINANCIAL STATEMENT CREDIT FOR REINSURANCE CEDED TO A CERTIFIED REINSURER,
21 THE CERTIFIED REINSURER SHALL MAINTAIN SECURITY IN A FORM ACCEPTABLE TO THE
22 DIRECTOR AND CONSISTENT WITH THE PROVISIONS OF SECTION 20-261.06 OR IN A
23 MULTIBENEFICIARY TRUST IN ACCORDANCE WITH SUBSECTION E OF THIS SECTION,
24 EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION AND SUBSECTIONS F AND G OF
25 THIS SECTION.

26 2. IF A CERTIFIED REINSURER MAINTAINS A TRUST TO FULLY SECURE ITS
27 OBLIGATIONS SUBJECT TO SUBSECTION E OF THIS SECTION, AND CHOOSES TO SECURE
28 ITS OBLIGATIONS INCURRED AS A CERTIFIED REINSURER IN THE FORM OF A
29 MULTIBENEFICIARY TRUST, THE CERTIFIED REINSURER SHALL MAINTAIN SEPARATE TRUST
30 ACCOUNTS FOR ITS OBLIGATIONS INCURRED UNDER REINSURANCE AGREEMENTS ISSUED OR
31 RENEWED AS A CERTIFIED REINSURER WITH REDUCED SECURITY AS ALLOWED BY
32 SUBSECTION F OF THIS SECTION OR COMPARABLE LAWS OF OTHER UNITED STATES

1 JURISDICTIONS AND FOR ITS OBLIGATIONS SUBJECT TO SUBSECTION E OF THIS
2 SECTION. IT SHALL BE A CONDITION TO THE GRANT OF CERTIFICATION UNDER
3 SUBSECTION F OF THIS SECTION THAT THE CERTIFIED REINSURER SHALL HAVE BOUND
4 ITSELF, BY THE LANGUAGE OF THE TRUST AND AGREEMENT WITH THE DIRECTOR WITH
5 PRINCIPAL REGULATORY OVERSIGHT OF EACH SUCH TRUST ACCOUNT, TO FUND, ON
6 TERMINATION OF ANY SUCH TRUST ACCOUNT, OUT OF THE REMAINING SURPLUS OF SUCH
7 TRUST ANY DEFICIENCY OF ANY OTHER SUCH TRUST ACCOUNT.

8 3. THE MINIMUM TRUSTEED SURPLUS REQUIREMENTS PROVIDED IN SUBSECTION E
9 OF THIS SECTION ARE NOT APPLICABLE WITH RESPECT TO A MULTIBENEFICIARY TRUST
10 MAINTAINED BY A CERTIFIED REINSURER FOR THE PURPOSE OF SECURING OBLIGATIONS
11 INCURRED UNDER THIS SUBSECTION, EXCEPT THAT SUCH TRUST SHALL MAINTAIN A
12 MINIMUM TRUSTEED SURPLUS OF TEN MILLION DOLLARS.

13 4. WITH RESPECT TO OBLIGATIONS INCURRED BY A CERTIFIED REINSURER UNDER
14 THIS SUBSECTION AND SUBSECTIONS F AND G OF THIS SECTION, IF THE SECURITY IS
15 INSUFFICIENT, THE DIRECTOR SHALL REDUCE THE ALLOWABLE CREDIT BY AN AMOUNT
16 PROPORTIONATE TO THE DEFICIENCY, AND MAY IMPOSE FURTHER REDUCTIONS IN
17 ALLOWABLE CREDIT ON FINDING THAT THERE IS A MATERIAL RISK THAT THE CERTIFIED
18 REINSURER'S OBLIGATIONS WILL NOT BE PAID IN FULL WHEN DUE.

19 5. FOR THE PURPOSES OF THIS SUBSECTION AND SUBSECTIONS F AND G OF THIS
20 SECTION:

21 (a) A CERTIFIED REINSURER WHOSE CERTIFICATION HAS BEEN TERMINATED FOR
22 ANY REASON SHALL BE TREATED AS A CERTIFIED REINSURER AND IS REQUIRED TO
23 SECURE ONE HUNDRED PERCENT OF ITS OBLIGATIONS.

24 (b) "TERMINATED" MEANS REVOCATION, SUSPENSION, VOLUNTARY SURRENDER OR
25 INACTIVE STATUS.

26 6. IF THE DIRECTOR CONTINUES TO ASSIGN A HIGHER RATING AS PERMITTED BY
27 OTHER PROVISIONS OF THIS SECTION, THE REQUIREMENT PRESCRIBED IN PARAGRAPH 5,
28 SUBDIVISION (a) OF THIS SUBSECTION DOES NOT APPLY TO A CERTIFIED REINSURER IN
29 INACTIVE STATUS OR TO A REINSURER WHOSE CERTIFICATION HAS BEEN SUSPENDED.

30 7. IF AN APPLICANT FOR CERTIFICATION HAS BEEN CERTIFIED AS A REINSURER
31 IN A NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS ACCREDITED JURISDICTION,
32 THE DIRECTOR MAY DEFER TO THAT JURISDICTION'S CERTIFICATION AND MAY DEFER TO

1 THE RATING ASSIGNED BY THAT JURISDICTION, AND SUCH ASSUMING INSURER SHALL BE
2 CONSIDERED TO BE A CERTIFIED REINSURER IN THIS STATE.

3 8. TO CONTINUE TO QUALIFY FOR A REDUCTION IN SECURITY FOR ITS IN-FORCE
4 BUSINESS, A CERTIFIED REINSURER THAT CEASES TO ASSUME NEW BUSINESS IN THIS
5 STATE MAY REQUEST TO MAINTAIN ITS CERTIFICATION IN INACTIVE STATUS. AN
6 INACTIVE CERTIFIED REINSURER SHALL CONTINUE TO COMPLY WITH ALL APPLICABLE
7 REQUIREMENTS OF THIS SUBSECTION AND SUBSECTIONS F AND G OF THIS SECTION, AND
8 THE DIRECTOR SHALL ASSIGN A RATING THAT TAKES INTO ACCOUNT, IF RELEVANT, THE
9 REASONS WHY THE REINSURER IS NOT ASSUMING NEW BUSINESS.

10 I. CREDIT SHALL BE ALLOWED WHEN THE REINSURANCE IS CEDED TO AN
11 ASSUMING INSURER THAT DOES NOT MEET THE REQUIREMENTS OF THIS SUBSECTION OR
12 SUBSECTION B, C, D, E, F OR G OF THIS SECTION, BUT ONLY AS TO THE INSURANCE
13 OF RISKS LOCATED IN JURISDICTIONS WHERE THE REINSURANCE IS REQUIRED BY
14 APPLICABLE LAW OR REGULATION OF THAT JURISDICTION.

15 J. IF AN ASSUMING INSURER IS NOT LICENSED, ACCREDITED OR CERTIFIED TO
16 TRANSACT INSURANCE OR REINSURANCE IN THIS STATE, THE CREDIT OTHERWISE ALLOWED
17 BY SUBSECTION D OR E OF THIS SECTION SHALL NOT BE ALLOWED UNLESS THE ASSUMING
18 INSURER AGREES IN THE REINSURANCE AGREEMENTS TO ALL OF THE FOLLOWING:

19 1. IF THE ASSUMING INSURER FAILS TO PERFORM ITS OBLIGATIONS UNDER THE
20 TERMS OF THE REINSURANCE AGREEMENT, TO SUBMIT, AT THE REQUEST OF THE CEDING
21 INSURER, TO THE JURISDICTION OF ANY COURT OF COMPETENT JURISDICTION IN ANY
22 STATE OF THE UNITED STATES, TO COMPLY WITH ALL REQUIREMENTS NECESSARY TO GIVE
23 THE COURT JURISDICTION AND TO ABIDE BY THE FINAL DECISION OF THE COURT OR OF
24 ANY APPELLATE COURT IN THE EVENT OF AN APPEAL.

25 2. TO DESIGNATE THE DIRECTOR OR A DESIGNATED ATTORNEY AS ITS TRUE AND
26 LAWFUL ATTORNEY UPON WHOM MAY BE SERVED ANY LAWFUL PROCESS IN ANY ACTION,
27 SUIT OR PROCEEDING INSTITUTED BY OR ON BEHALF OF THE CEDING INSURER.

28 K. SUBSECTION J OF THIS SECTION IS NOT INTENDED TO CONFLICT WITH OR
29 OVERRIDE THE OBLIGATION OF THE PARTIES TO A REINSURANCE AGREEMENT TO
30 ARBITRATE THEIR DISPUTES, IF THIS OBLIGATION IS CREATED IN THE AGREEMENT.

31 L. IF THE ASSUMING INSURER DOES NOT MEET THE REQUIREMENTS OF
32 SUBSECTION B, C OR D OF THIS SECTION, THE CREDIT OTHERWISE ALLOWED BY

1 SUBSECTION E, F, G OR H OF THIS SECTION SHALL NOT BE ALLOWED UNLESS THE
2 ASSUMING INSURER AGREES IN THE TRUST AGREEMENTS TO THE FOLLOWING CONDITIONS:

3 1. NOTWITHSTANDING ANY OTHER PROVISION IN THE TRUST AGREEMENT, IF THE
4 TRUST FUND IS INADEQUATE BECAUSE IT CONTAINS AN AMOUNT LESS THAN THE AMOUNT
5 REQUIRED BY SUBSECTION E, PARAGRAPH 4, 5 OR 6 OF THIS SECTION, OR IF THE
6 GRANTOR OF THE TRUST HAS BEEN DECLARED INSOLVENT OR PLACED INTO RECEIVERSHIP,
7 REHABILITATION, LIQUIDATION OR SIMILAR PROCEEDINGS UNDER THE LAWS OF ITS
8 STATE OR COUNTRY OF DOMICILE, THE TRUSTEE SHALL COMPLY WITH AN ORDER OF THE
9 DIRECTOR WITH REGULATORY OVERSIGHT OVER THE TRUST OR WITH AN ORDER OF A COURT
10 OF COMPETENT JURISDICTION DIRECTING THE TRUSTEE TO TRANSFER TO THE DIRECTOR
11 WITH REGULATORY OVERSIGHT ALL ASSETS OF THE TRUST FUND.

12 2. THE ASSETS SHALL BE DISTRIBUTED BY AND CLAIMS SHALL BE FILED WITH
13 AND VALUED BY THE DIRECTOR WITH REGULATORY OVERSIGHT IN ACCORDANCE WITH THE
14 LAWS OF THE STATE IN WHICH THE TRUST IS DOMICILED THAT ARE APPLICABLE TO THE
15 LIQUIDATION OF DOMESTIC INSURANCE COMPANIES.

16 3. IF THE DIRECTOR WITH REGULATORY OVERSIGHT DETERMINES THAT THE
17 ASSETS OF THE TRUST FUND OR ANY PART THEREOF ARE NOT NECESSARY TO SATISFY THE
18 CLAIMS OF THE UNITED STATES CEDING INSURERS OF THE GRANTOR OF THE TRUST, THE
19 DIRECTOR WITH REGULATORY OVERSIGHT SHALL RETURN THE ASSETS OR PART THEREOF TO
20 THE TRUSTEE FOR DISTRIBUTION IN ACCORDANCE WITH THE TRUST AGREEMENT.

21 4. THE GRANTOR SHALL WAIVE ANY RIGHT OTHERWISE AVAILABLE TO IT UNDER
22 UNITED STATES LAW THAT IS INCONSISTENT WITH SUBSECTION H OF THIS SECTION.

23 M. IF AN ACCREDITED OR CERTIFIED REINSURER CEASES TO MEET THE
24 REQUIREMENTS FOR ACCREDITATION OR CERTIFICATION, THE DIRECTOR MAY SUSPEND OR
25 REVOKE THE REINSURER'S ACCREDITATION OR CERTIFICATION, SUBJECT TO THE
26 FOLLOWING PROVISIONS:

27 1. THE DIRECTOR SHALL GIVE THE REINSURER NOTICE AND AN OPPORTUNITY FOR
28 A HEARING. THE SUSPENSION OR REVOCATION MAY NOT TAKE EFFECT UNTIL AFTER THE
29 DIRECTOR'S ORDER ON HEARING, UNLESS ONE OF THE FOLLOWING APPLIES:

30 (a) THE REINSURER WAIVES ITS RIGHT TO A HEARING.

31 (b) THE DIRECTOR'S ORDER IS BASED ON REGULATORY ACTION BY THE
32 REINSURER'S DOMICILIARY JURISDICTION OR THE VOLUNTARY SURRENDER OR

1 TERMINATION OF THE REINSURER'S ELIGIBILITY TO TRANSACT INSURANCE OR
2 REINSURANCE BUSINESS IN ITS DOMICILIARY JURISDICTION OR IN THE PRIMARY
3 CERTIFYING STATE OF THE REINSURANCE UNDER SUBSECTION H, PARAGRAPH 7 OF THIS
4 SECTION.

5 (c) THE DIRECTOR FINDS THAT AN EMERGENCY REQUIRES IMMEDIATE ACTION AND
6 A COURT OF COMPETENT JURISDICTION HAS NOT YET STAYED THE DIRECTOR'S ACTION.

7 2. WHILE A REINSURER'S ACCREDITATION OR CERTIFICATION IS SUSPENDED, NO
8 REINSURANCE CONTRACT ISSUED OR RENEWED AFTER THE EFFECTIVE DATE OF THE
9 SUSPENSION QUALIFIES FOR CREDIT EXCEPT TO THE EXTENT THAT THE REINSURER'S
10 OBLIGATIONS UNDER THE CONTRACT ARE SECURED PURSUANT TO SECTION 20-261.06. IF
11 A REINSURER'S ACCREDITATION OR CERTIFICATION IS REVOKED, NO CREDIT FOR
12 REINSURANCE MAY BE GRANTED AFTER THE EFFECTIVE DATE OF THE REVOCATION EXCEPT
13 TO THE EXTENT THAT THE REINSURER'S OBLIGATIONS UNDER THE CONTRACT ARE SECURED
14 PURSUANT TO SUBSECTION H, PARAGRAPH 6 OF THIS SECTION OR SECTION 20-261.06.

15 N. WITH REGARD TO A CEDING INSURER'S CONCENTRATION RISK:

16 1. A CEDING INSURER SHALL TAKE STEPS TO MANAGE ITS REINSURANCE
17 RECOVERABLES PROPORTIONATE TO ITS OWN BOOK OF BUSINESS. A DOMESTIC CEDING
18 INSURER SHALL NOTIFY THE DIRECTOR WITHIN THIRTY DAYS AFTER REINSURANCE
19 RECOVERABLES FROM ANY SINGLE ASSUMING INSURER, OR GROUP OF AFFILIATED
20 ASSUMING INSURERS, EXCEED FIFTY PERCENT OF THE DOMESTIC CEDING INSURER'S LAST
21 REPORTED SURPLUS TO POLICYHOLDERS, OR AFTER IT IS DETERMINED THAT REINSURANCE
22 RECOVERABLES FROM ANY SINGLE ASSUMING INSURER, OR GROUP OF AFFILIATED
23 ASSUMING INSURERS, ARE LIKELY TO EXCEED THIS LIMIT. THE NOTIFICATION SHALL
24 DEMONSTRATE THAT THE EXPOSURE IS SAFELY MANAGED BY THE DOMESTIC CEDING
25 INSURER.

26 2. A CEDING INSURER SHALL TAKE STEPS TO DIVERSIFY ITS REINSURANCE
27 PROGRAM. A DOMESTIC CEDING INSURER SHALL NOTIFY THE DIRECTOR WITHIN THIRTY
28 DAYS AFTER CEDING TO ANY SINGLE ASSUMING INSURER, OR GROUP OF AFFILIATED
29 INSURERS, MORE THAN TWENTY PERCENT OF THE CEDING INSURER'S GROSS WRITTEN
30 PREMIUM IN THE PRIOR CALENDAR YEAR, OR AFTER IT HAS DETERMINED THAT THE
31 REINSURANCE CEDED TO ANY SINGLE ASSUMING INSURER, OR GROUP OF AFFILIATED
32 ASSUMING INSURERS, IS LIKELY TO EXCEED THIS LIMIT. THE NOTIFICATION SHALL

1 DEMONSTRATE THAT THE EXPOSURE IS SAFELY MANAGED BY THE DOMESTIC CEDING
2 INSURER.

3 20-261.06. Asset or reduction from liability for reinsurance
4 ceded by a domestic insurer to an assuming insurer

5 A. AN ASSET OR A REDUCTION FROM LIABILITY FOR THE REINSURANCE CEDED BY
6 A DOMESTIC INSURER TO AN ASSUMING INSURER THAT IS NOT MEETING THE
7 REQUIREMENTS OF SECTION 20-261.05 SHALL BE ALLOWED IN AN AMOUNT NOT EXCEEDING
8 THE LIABILITIES CARRIED BY THE CEDING INSURER. THE REDUCTION SHALL BE IN THE
9 AMOUNT OF FUNDS HELD BY OR ON BEHALF OF THE CEDING INSURER, INCLUDING FUNDS
10 HELD IN TRUST FOR THE CEDING INSURER, UNDER A REINSURANCE CONTRACT WITH THE
11 ASSUMING INSURER AS SECURITY FOR THE PAYMENT OF OBLIGATIONS THEREUNDER, IF
12 THE SECURITY IS HELD IN THE UNITED STATES SUBJECT TO WITHDRAWAL SOLELY BY,
13 AND UNDER THE EXCLUSIVE CONTROL OF, THE CEDING INSURER, OR IN THE CASE OF A
14 TRUST, HELD IN A QUALIFIED UNITED STATES FINANCIAL INSTITUTION, AS DEFINED IN
15 SECTION 20-261.03, SUBSECTION B.

16 B. THE SECURITY REQUIRED UNDER SUBSECTION A OF THIS SECTION MAY BE IN
17 THE FORM OF:

18 1. CASH.

19 2. SECURITIES LISTED BY THE SECURITIES VALUATION OFFICE OF THE
20 NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, INCLUDING THOSE DEEMED
21 EXEMPT FROM FILING AS DEFINED BY THE PURPOSES AND PROCEDURES MANUAL OF THE
22 SECURITIES VALUATION OFFICE, AND QUALIFYING AS ADMITTED ASSETS.

23 3. CLEAN, IRREVOCABLE, UNCONDITIONAL LETTERS OF CREDIT, ISSUED OR
24 CONFIRMED BY A QUALIFIED UNITED STATES FINANCIAL INSTITUTION, AS DEFINED IN
25 SECTION 20-261.03, SUBSECTION A, EFFECTIVE NO LATER THAN DECEMBER 31 OF THE
26 YEAR FOR WHICH THE FILING IS BEING MADE, AND IN THE POSSESSION OF, OR IN
27 TRUST FOR, THE CEDING INSURER ON OR BEFORE THE FILING DATE OF ITS ANNUAL
28 STATEMENT.

29 4. LETTERS OF CREDIT THAT MEET APPLICABLE STANDARDS OF ISSUER
30 ACCEPTABILITY AS OF THE DATES OF THEIR ISSUANCE OR CONFIRMATION AND THAT,
31 NOTWITHSTANDING THE ISSUING OR CONFIRMING INSTITUTION'S SUBSEQUENT FAILURE TO
32 MEET APPLICABLE STANDARDS OF ISSUER ACCEPTABILITY, SHALL CONTINUE TO BE

1 ACCEPTABLE AS SECURITY UNTIL THEIR EXPIRATION, EXTENSION, RENEWAL,
2 MODIFICATION OR AMENDMENT, WHICHEVER FIRST OCCURS.

3 5. ANY OTHER FORM OF SECURITY ACCEPTABLE TO THE DIRECTOR.

4 20-261.07. Reinsurance agreements affected

5 NOTWITHSTANDING SECTION 20-261.04, SECTIONS 20-261.03, 20-261.05 AND
6 20-261.06 APPLY TO ALL CESSIONS AFTER THE EFFECTIVE DATE OF THIS SECTION
7 UNDER REINSURANCE AGREEMENTS THAT HAVE AN INCEPTION, ANNIVERSARY OR RENEWAL
8 DATE THAT IS NOT LESS THAN SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS
9 SECTION.

10 20-261.08. Rules

11 THE DIRECTOR MAY ADOPT RULES PURSUANT TO TITLE 41, CHAPTER 6 TO
12 IMPLEMENT SECTIONS 20-261.03, 20-261.05, 20-261.06 AND 20-261.07 RELATING TO
13 CREDIT FOR REINSURANCE.

14 Sec. 3. Rulemaking; exemption

15 For the purposes of implementing this act, including rules identifying
16 the requirements for a jurisdiction to be considered a qualified jurisdiction
17 by the director of the department of insurance, the department of insurance
18 is exempt from the rulemaking requirements of title 41, chapter 6, Arizona
19 Revised Statutes, for two years after the effective date of this act."

20 Amend title to conform

KAREN FANN

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02/15/2015
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C: mjh

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ARIZONA HOUSE OF REPRESENTATIVES
Fifty-second Legislature - First Regular Session

ROLL CALL VOTE

COMMITTEE ON INSURANCE BILL NO. HB 2352

DATE February 18, 2015 MOTION: DPA S/E

	PASS	AYE	NAY	PRESENT	ABSENT
Mr. Coleman		✓			
Mr. Larkin		✓			
Mr. Lovas		✓			
Ms. McCune Davis		✓			
Ms. Otondo		✓			
Mr. Robson		✓			
Mr. Livingston, Vice-Chairman		✓			
Ms. Fann, Chairman		✓			
		8	0	0	0

APPROVED:

Karen Fann
 KAREN FANN, Chairman

DAVID LIVINGSTON, Vice-Chairman

David Livingston
 COMMITTEE SECRETARY

ATTACHMENT 7