PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2352

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

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

20-261.03. Qualified United States financial institution;
definitions

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

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

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

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

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

1. Is organized, or in the case of a United States branch or agency office of a foreign banking organization, licensed, under the laws of the United States or any state of the United States that has been granted authority to operate with fiduciary powers.
2. Is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies.

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

20-261.05. Credit for reinsurance

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

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

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

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

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

3. BE LICENSED TO TRANSACT INSURANCE OR REINSURANCE IN AT LEAST ONE STATE, OR IN THE CASE OF A UNITED STATES BRANCH OF AN ALIEN ASSUMING INSURER, BE ENTERED THROUGH AND LICENSED TO TRANSACT INSURANCE OR REINSURANCE IN AT LEAST ONE STATE.
4. File annually with the Director a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement.

5. Demonstrate to the satisfaction of the Director that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from a domestic insurer. An assuming insurer is deemed to meet this requirement as of the time of its application if it maintains a surplus as regards policyholders in an amount not less than twenty million dollars and the Director has not denied its accreditation within ninety days after submission of its application.

D. Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is domiciled in, or in the case of a United States branch of an alien assuming insurer is entered through, a state that employs standards regarding credit for reinsurance substantially similar to those applicable under this section and the assuming insurer or United States branch of an alien assuming insurer does both of the following:

1. Maintains a surplus as regards policyholders in an amount not less than twenty million dollars. This requirement does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

2. Submits to the authority of this state to examine its books and records.

E. Credit shall be allowed when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution, as defined in section 20-261.03, subsection B, for the payment of valid claims of its United States ceding insurers, their assigns and successors in interest. To enable the Director to determine the sufficiency of the trust fund, the assuming insurer shall report annually to the Director information substantially the same as that required to be reported in the National Association of Insurance Commissioners annual statement form by licensed insurers. The assuming insurer shall submit to
EXAMINATION OF ITS BOOKS AND RECORDS BY THE DIRECTOR AND ASSUME THE EXPENSE
OF EXAMINATION. THE FOLLOWING PROVISIONS ALSO APPLY TO THE TRUST:

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

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

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

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

3. THE TRUST SHALL REMAIN IN EFFECT FOR AS LONG AS THE ASSUMING
INSURER HAS OUTSTANDING OBLIGATIONS DUE UNDER THE REINSURANCE AGREEMENTS
SUBJECT TO THE TRUST. ON OR BEFORE FEBRUARY 28 OF EACH YEAR THE TRUSTEE OF
THE TRUST SHALL REPORT TO THE DIRECTOR IN WRITING THE BALANCE OF THE TRUST
AND A LIST OF THE TRUST'S INVESTMENTS AT THE PRECEDING YEAR END AND SHALL
CERTIFY THE DATE OF TERMINATION OF THE TRUST, IF SO PLANNED, OR CERTIFY THAT

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

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

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

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

(c) IN ADDITION TO THE TRUSTS SET FORTH IN SUBDIVISIONS (a) AND (b) OF THIS PARAGRAPH, THE GROUP SHALL MAINTAIN IN TRUST A TRUSTEED SURPLUS OF WHICH ONE HUNDRED MILLION DOLLARS SHALL BE HELD JOINTLY FOR THE BENEFIT OF THE
UNITED STATES DOMICILED CEDING INSURERS OF ANY MEMBER OF THE GROUP FOR ALL YEARS OF ACCOUNT.

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

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

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

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

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

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

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

(e) WITHIN NINETY DAYS AFTER ITS FINANCIAL STATEMENTS ARE DUE TO BE FILED WITH THE GROUP'S DOMICILIARY REGULATOR, MAKE AVAILABLE TO THE DIRECTOR AN ANNUAL CERTIFICATION OF EACH UNDERWRITER MEMBER'S SOLVENCY BY THE MEMBER'S DOMICILIARY REGULATOR AND FINANCIAL STATEMENTS OF EACH UNDERWRITER MEMBER OF THE GROUP PREPARED BY ITS INDEPENDENT PUBLIC ACCOUNTANT.
F. CREDIT SHALL BE ALLOWED WHEN THE REINSURANCE IS Ceded TO AN
ASSURING INSURER THAT HAS BEEN CERTIFIED BY THE DIRECTOR AS A REINSURER IN
THIS STATE AND THAT SECURES ITS OBLIGATIONS IN ACCORDANCE WITH THE
REQUIREMENTS OF THIS SUBSECTION. IN ORDER TO BE ELIGIBLE FOR CERTIFICATION,
THE ASSURING INSURER SHALL MEET THE FOLLOWING REQUIREMENTS:

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

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

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

4. THE ASSURING INSURER MUST AGREE TO SUBMIT TO THE JURISDICTION OF
THIS STATE, APPOINT THE DIRECTOR AS ITS AGENT FOR SERVICE OF PROCESS IN THIS
STATE AND AGREE TO PROVIDE SECURITY FOR ONE HUNDRED PERCENT OF THE ASSURING
INSURER’S LIABILITIES ATTRIBUTABLE TO REINSURANCE Ceded BY UNITED STATES
CEDING INSURERS IF THE ASSURING INSURER RESISTS ENFORCEMENT OF A FINAL UNITED
STATES JUDGMENT.

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

6. THE ASSURING INSURER MUST SATISFY ANY OTHER REQUIREMENTS FOR
CERTIFICATION DEEMED RELEVANT BY THE DIRECTOR.

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

(a) THE ASSOCIATION SHALL SATISFY ITS MINIMUM CAPITAL AND SURPLUS
REQUIREMENTS THROUGH THE CAPITAL AND SURPLUS EQUIVALENTS, NET OF LIABILITIES,
OF THE ASSOCIATION AND ITS MEMBERS, WHICH SHALL INCLUDE A JOINT CENTRAL FUND
THAT MAY BE APPLIED TO ANY UNSATISFIED OBLIGATION OF THE ASSOCIATION OR ANY
OF ITS MEMBERS, IN AN AMOUNT DETERMINED BY THE DIRECTOR TO PROVIDE ADEQUATE
PROTECTION.

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

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

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

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

2. CONSIDER THE LIST OF QUALIFIED JURISDICTIONS PUBLISHED THROUGH THE
NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS COMMITTEE PROCESS IN
DETERMINING QUALIFIED JURISDICTIONS. IF THE DIRECTOR APPROVES A JURISDICTION
AS QUALIFIED THAT DOES NOT APPEAR ON THE LIST OF QUALIFIED JURISDICTIONS PUBLISHED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, THE DIRECTOR SHALL PROVIDE THOROUGHLY DOCUMENTED JUSTIFICATION IN ACCORDANCE WITH CRITERIA TO BE DEVELOPED BY RULE.

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

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

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

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

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

2. IF A CERTIFIED REINSURER MAINTAINS A TRUST TO FULLY SECURE ITS OBLIGATIONS SUBJECT TO SUBSECTION E OF THIS SECTION, AND CHOOSES TO SECURE ITS OBLIGATIONS INCURRED AS A CERTIFIED REINSURER IN THE FORM OF A MULTIBENEFICIARY TRUST, THE CERTIFIED REINSURER SHALL MAINTAIN SEPARATE TRUST ACCOUNTS FOR ITS OBLIGATIONS INCURRED UNDER REINSURANCE AGREEMENTS ISSUED OR RENEWED AS A CERTIFIED REINSURER WITH REDUCED SECURITY AS ALLOWED BY SUBSECTION F OF THIS SECTION OR COMPARABLE LAWS OF OTHER UNITED STATES
JURISDICTIONS AND FOR ITS OBLIGATIONS SUBJECT TO SUBSECTION E OF THIS
SECTION. IT SHALL BE A CONDITION TO THE GRANT OF CERTIFICATION UNDER
SUBSECTION F OF THIS SECTION THAT THE CERTIFIED REINSURER SHALL HAVE BOUND
ITSELF, BY THE LANGUAGE OF THE TRUST AND AGREEMENT WITH THE DIRECTOR WITH
PRINCIPAL REGULATORY OVERSIGHT OF EACH SUCH TRUST ACCOUNT, TO FUND, ON
TERMINATION OF ANY SUCH TRUST ACCOUNT, OUT OF THE REMAINING SURPLUS OF SUCH
TRUST ANY DEFICIENCY OF ANY OTHER SUCH TRUST ACCOUNT.

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

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

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

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

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

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

7. IF AN APPLICANT FOR CERTIFICATION HAS BEEN CERTIFIED AS A REINSURER
IN A NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS ACCREDITED JURISDICTION,
THE DIRECTOR MAY DEFER TO THAT JURISDICTION'S CERTIFICATION AND MAY DEFER TO
THE RATING ASSIGNED BY THAT JURISDICTION, AND SUCH ASSUMING INSURER SHALL BE
CONSIDERED TO BE A CERTIFIED REINSURER IN THIS STATE.

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

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

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

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

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

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

L. IF THE ASSUMING INSURER DOES NOT MEET THE REQUIREMENTS OF
SUBSECTION B, C OR D OF THIS SECTION, THE CREDIT OTHERWISE ALLOWED BY
SUBSECTION E, F, G OR H OF THIS SECTION SHALL NOT BE ALLOWED UNLESS THE ASSUMING INSURER AGREES IN THE TRUST AGREEMENTS TO THE FOLLOWING CONDITIONS:

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

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


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

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

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

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

   (b) THE DIRECTOR'S ORDER IS BASED ON REGULATORY ACTION BY THE REINSURER'S DOMICILIARY JURISDICTION OR THE VOLUNTARY SURRENDER OR
TERMINATION OF THE REINSURER'S ELIGIBILITY TO TRANSACT INSURANCE OR REINSURANCE BUSINESS IN ITS DOMICILIARY JURISDICTION OR IN THE PRIMARY CERTIFYING STATE OF THE REINSURANCE UNDER SUBSECTION H, PARAGRAPH 7 OF THIS SECTION.

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

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

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

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

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

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

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

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

1. CASH.

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

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

4. LETTERS OF CREDIT THAT MEET APPLICABLE STANDARDS OF ISSUER ACCEPTABILITY AS OF THE DATES OF THEIR ISSUANCE OR CONFIRMATION AND THAT, NOTWITHSTANDING THE ISSUING OR CONFIRMING INSTITUTION'S SUBSEQUENT FAILURE TO MEET APPLICABLE STANDARDS OF ISSUER ACCEPTABILITY, SHALL CONTINUE TO BE
ACCEPTABLE AS SECURITY UNTIL THEIR EXPIRATION, EXTENSION, RENEWAL, MODIFICATION OR AMENDMENT, WHICHEVER FIRST OCCURS.

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

20-261.07. Reinsurance agreements affected

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

20-261.08. Rules

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

Sec. 3. Rulemaking; exemption

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

Amend title to conform

KAREN FANN

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C: mjh