

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

CHAPTER 119
HOUSE BILL 2352

AN ACT

AMENDING SECTION 20-261.03, ARIZONA REVISED STATUTES; AMENDING TITLE 20, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 20-261.05, 20-261.06, 20-261.07 AND 20-261.08; RELATING TO CREDIT FOR REINSURANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
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
10 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.
26 2. Is regulated, supervised and examined by federal or state
27 authorities having regulatory authority over banks and trust companies.
28 Sec. 2. Title 20, chapter 2, article 2, Arizona Revised Statutes, is
29 amended by adding sections 20-261.05, 20-261.06, 20-261.07 and 20-261.08, to
30 read:
31 20-261.05. Credit for reinsurance
32 A. **A DOMESTIC CEDING INSURER SHALL BE ALLOWED CREDIT FOR REINSURANCE**
33 **AS EITHER AN ASSET OR A REDUCTION FROM LIABILITY ON ACCOUNT OF REINSURANCE**
34 **CEDED ONLY WHEN THE REINSURER MEETS THE REQUIREMENTS OF SUBSECTION B, C, D,**
35 **E, F OR G OF THIS SECTION. CREDIT SHALL BE ALLOWED UNDER SUBSECTION B, C OR**
36 **D OF THIS SECTION ONLY FOR CESSIONS OF THOSE KINDS OR CLASSES OF BUSINESS**
37 **THAT THE ASSUMING INSURER IS LICENSED OR OTHERWISE PERMITTED TO WRITE OR**
38 **ASSUME IN ITS STATE OF DOMICILE OR, IN THE CASE OF A UNITED STATES BRANCH OF**
39 **AN ALIEN ASSUMING INSURER, IN THE STATE THROUGH WHICH IT IS ENTERED AND**
40 **LICENSED TO TRANSACT INSURANCE OR REINSURANCE. CREDIT SHALL BE ALLOWED UNDER**
41 **SUBSECTION D OR E OF THIS SECTION ONLY IF THE APPLICABLE REQUIREMENTS OF**
42 **SUBSECTION H OF THIS SECTION HAVE BEEN SATISFIED.**
43 B. **CREDIT SHALL BE ALLOWED WHEN THE REINSURANCE IS CEDED TO AN**
44 **ASSUMING INSURER THAT IS LICENSED TO TRANSACT INSURANCE OR REINSURANCE IN**
45 **THIS STATE.**

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

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

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

7 3. BE LICENSED TO TRANSACT INSURANCE OR REINSURANCE IN AT LEAST ONE
8 STATE, OR IN THE CASE OF A UNITED STATES BRANCH OF AN ALIEN ASSUMING INSURER,
9 BE ENTERED THROUGH AND LICENSED TO TRANSACT INSURANCE OR REINSURANCE IN AT
10 LEAST ONE STATE.

11 4. FILE ANNUALLY WITH THE DIRECTOR A COPY OF ITS ANNUAL STATEMENT
12 FILED WITH THE INSURANCE DEPARTMENT OF ITS STATE OF DOMICILE AND A COPY OF
13 ITS MOST RECENT AUDITED FINANCIAL STATEMENT.

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

21 D. CREDIT SHALL BE ALLOWED WHEN THE REINSURANCE IS CEDED TO AN
22 ASSUMING INSURER THAT IS DOMICILED IN, OR IN THE CASE OF A UNITED STATES
23 BRANCH OF AN ALIEN ASSUMING INSURER IS ENTERED THROUGH, A STATE THAT EMPLOYS
24 STANDARDS REGARDING CREDIT FOR REINSURANCE SUBSTANTIALLY SIMILAR TO THOSE
25 APPLICABLE UNDER THIS SECTION AND THE ASSUMING INSURER OR UNITED STATES
26 BRANCH OF AN ALIEN ASSUMING INSURER DOES BOTH OF THE FOLLOWING:

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

31 2. SUBMITS TO THE AUTHORITY OF THIS STATE TO EXAMINE ITS BOOKS AND
32 RECORDS.

33 E. CREDIT SHALL BE ALLOWED WHEN THE REINSURANCE IS CEDED TO AN
34 ASSUMING INSURER THAT MAINTAINS A TRUST FUND IN A QUALIFIED UNITED STATES
35 FINANCIAL INSTITUTION, AS DEFINED IN SECTION 20-261.03, SUBSECTION B, FOR THE
36 PAYMENT OF VALID CLAIMS OF ITS UNITED STATES CEDING INSURERS, THEIR ASSIGNS
37 AND SUCCESSORS IN INTEREST. TO ENABLE THE DIRECTOR TO DETERMINE THE
38 SUFFICIENCY OF THE TRUST FUND, THE ASSUMING INSURER SHALL REPORT ANNUALLY TO
39 THE DIRECTOR INFORMATION SUBSTANTIALLY THE SAME AS THAT REQUIRED TO BE
40 REPORTED IN THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS ANNUAL
41 STATEMENT FORM BY LICENSED INSURERS. THE ASSUMING INSURER SHALL SUBMIT TO
42 EXAMINATION OF ITS BOOKS AND RECORDS BY THE DIRECTOR AND ASSUME THE EXPENSE
43 OF EXAMINATION. THE FOLLOWING PROVISIONS ALSO APPLY TO THE TRUST:

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

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

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

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

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

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

27 5. AT ANY TIME AFTER THE ASSUMING INSURER HAS PERMANENTLY DISCONTINUED
28 UNDERWRITING NEW BUSINESS SECURED BY THE TRUST FOR AT LEAST THREE FULL YEARS,
29 THE DIRECTOR WITH PRINCIPAL REGULATORY OVERSIGHT OVER THE TRUST MAY AUTHORIZE
30 A REDUCTION IN THE REQUIRED TRUSTEED SURPLUS, BUT ONLY AFTER A FINDING, BASED
31 ON AN ASSESSMENT OF THE RISK, THAT THE NEW REQUIRED SURPLUS LEVEL IS ADEQUATE
32 FOR THE PROTECTION OF UNITED STATES CEDING INSURERS, POLICYHOLDERS AND
33 CLAIMANTS IN LIGHT OF REASONABLY FORESEEABLE ADVERSE LOSS DEVELOPMENT. THE
34 RISK ASSESSMENT MAY INVOLVE AN ACTUARIAL REVIEW, INCLUDING AN INDEPENDENT
35 ANALYSIS OF RESERVES AND CASH FLOWS, AND SHALL CONSIDER ALL MATERIAL RISK
36 FACTORS, INCLUDING, WHEN APPLICABLE, THE LINES OF BUSINESS INVOLVED, THE
37 STABILITY OF THE INCURRED LOSS ESTIMATES AND THE EFFECT OF THE SURPLUS
38 REQUIREMENTS ON THE ASSUMING INSURER'S LIQUIDITY OR SOLVENCY. THE MINIMUM
39 REQUIRED TRUSTEED SURPLUS MAY NOT BE REDUCED TO AN AMOUNT LESS THAN THIRTY
40 PERCENT OF THE ASSUMING INSURER'S LIABILITIES ATTRIBUTABLE TO REINSURANCE
41 CEDED BY UNITED STATES CEDING INSURERS COVERED BY THE TRUST.

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

44 (a) FOR REINSURANCE CEDED UNDER REINSURANCE AGREEMENTS WITH AN
45 INCEPTION AMENDMENT OR RENEWAL DATE ON OR AFTER JANUARY 1, 1993, THE TRUST
46 SHALL CONSIST OF A TRUSTEED ACCOUNT IN AN AMOUNT NOT LESS THAN THE RESPECTIVE

1 UNDERWRITERS' SEVERAL LIABILITIES ATTRIBUTABLE TO BUSINESS CEDED BY UNITED
2 STATES DOMICILED CEDING INSURERS TO ANY UNDERWRITER OF THE GROUP.

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

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

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

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

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

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

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

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

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

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

45 F. CREDIT SHALL BE ALLOWED WHEN THE REINSURANCE IS CEDED TO AN
46 ASSUMING INSURER THAT HAS BEEN CERTIFIED BY THE DIRECTOR AS A REINSURER IN

1 THIS STATE AND THAT SECURES ITS OBLIGATIONS IN ACCORDANCE WITH THE
2 REQUIREMENTS OF THIS SUBSECTION. IN ORDER TO BE ELIGIBLE FOR CERTIFICATION,
3 THE ASSUMING INSURER SHALL MEET THE FOLLOWING REQUIREMENTS:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 2. IF A CERTIFIED REINSURER MAINTAINS A TRUST TO FULLY SECURE ITS
43 OBLIGATIONS SUBJECT TO SUBSECTION E OF THIS SECTION, AND CHOOSES TO SECURE
44 ITS OBLIGATIONS INCURRED AS A CERTIFIED REINSURER IN THE FORM OF A
45 MULTIBENEFICIARY TRUST, THE CERTIFIED REINSURER SHALL MAINTAIN SEPARATE TRUST
46 ACCOUNTS FOR ITS OBLIGATIONS INCURRED UNDER REINSURANCE AGREEMENTS ISSUED OR

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

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

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

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

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

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

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

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

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

44 I. CREDIT SHALL BE ALLOWED WHEN THE REINSURANCE IS CEDED TO AN
45 ASSUMING INSURER THAT DOES NOT MEET THE REQUIREMENTS OF THIS SUBSECTION OR
46 SUBSECTION B, C, D, E, F OR G OF THIS SECTION, BUT ONLY AS TO THE INSURANCE

1 OF RISKS LOCATED IN JURISDICTIONS WHERE THE REINSURANCE IS REQUIRED BY
2 APPLICABLE LAW OR REGULATION OF THAT JURISDICTION.

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

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

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

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

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

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

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

36 3. IF THE DIRECTOR WITH REGULATORY OVERSIGHT DETERMINES THAT THE
37 ASSETS OF THE TRUST FUND OR ANY PART THEREOF ARE NOT NECESSARY TO SATISFY THE
38 CLAIMS OF THE UNITED STATES CEDING INSURERS OF THE GRANTOR OF THE TRUST, THE
39 DIRECTOR WITH REGULATORY OVERSIGHT SHALL RETURN THE ASSETS OR PART THEREOF TO
40 THE TRUSTEE FOR DISTRIBUTION IN ACCORDANCE WITH THE TRUST AGREEMENT.

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

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

1 AMOUNT OF FUNDS HELD BY OR ON BEHALF OF THE CEDING INSURER, INCLUDING FUNDS
2 HELD IN TRUST FOR THE CEDING INSURER, UNDER A REINSURANCE CONTRACT WITH THE
3 ASSUMING INSURER AS SECURITY FOR THE PAYMENT OF OBLIGATIONS THEREUNDER, IF
4 THE SECURITY IS HELD IN THE UNITED STATES SUBJECT TO WITHDRAWAL SOLELY BY,
5 AND UNDER THE EXCLUSIVE CONTROL OF, THE CEDING INSURER, OR IN THE CASE OF A
6 TRUST, HELD IN A QUALIFIED UNITED STATES FINANCIAL INSTITUTION, AS DEFINED IN
7 SECTION 20-261.03, SUBSECTION B.

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

10 1. CASH.

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

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

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

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

28 20-261.07. Reinsurance agreements affected

29 NOTWITHSTANDING SECTION 20-261.04, SECTIONS 20-261.03, 20-261.05 AND
30 20-261.06 APPLY TO ALL CESSIONS AFTER THE EFFECTIVE DATE OF THIS SECTION
31 UNDER REINSURANCE AGREEMENTS THAT HAVE AN INCEPTION, ANNIVERSARY OR RENEWAL
32 DATE THAT IS NOT LESS THAN SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS
33 SECTION.

34 20-261.08. Rules

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

38 Sec. 3. Rulemaking; exemption

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

H.B. 2352

APPROVED BY THE GOVERNOR MARCH 30, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 31, 2015.