

Senate Engrossed
credit for reinsurance

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

CHAPTER 357

SENATE BILL 1044

AN ACT

REPEALING SECTIONS 20-261.01, 20-261.02, 20-261.03, 20-261.04, 20-261.05, 20-261.06, 20-261.07 AND 20-261.08, ARIZONA REVISED STATUTES; AMENDING SECTIONS 20-821, 20-1068, 20-1085, 20-1094.01, 20-1098.03, 20-1098.11 AND 20-1557, ARIZONA REVISED STATUTES; AMENDING TITLE 20, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 30; RELATING TO REINSURANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Repeal

3 Sections 20-261.01, 20-261.02, 20-261.03, 20-261.04, 20-261.05,
4 20-261.06, 20-261.07 and 20-261.08, Arizona Revised Statutes, are
5 repealed.

6 Sec. 2. Section 20-821, Arizona Revised Statutes, is amended to
7 read:

8 20-821. Scope of article; rules; authority of director

9 A. Hospital service corporations, medical service corporations,
10 dental service corporations, optometric service corporations and hospital,
11 medical, dental and optometric service corporations incorporated in this
12 state are governed by this article and are exempt from all other
13 provisions of this title, except as expressly provided by this article and
14 any rule adopted by the director pursuant to section 20-143 relating to
15 contracts of such service corporations. No insurance law enacted after
16 January 1, 1955 applies to such corporations unless the law specifically
17 refers to corporations.

18 B. Chapter 2, article 12 of this title, sections 20-223, 20-234,
19 20-261, ~~20-261.01, 20-261.02, 20-261.03, 20-261.04,~~ 20-1133, 20-1377,
20 20-1408, 20-1692, 20-1692.01, 20-1692.02 and 20-1692.03 and chapters 15,
21 17, ~~and~~ 20 AND 30 of this title and any rules adopted to implement these
22 provisions apply to all corporations governed by this article.

23 C. Chapter 21 of this title applies to a hospital service
24 corporation, a medical service corporation or a hospital and medical
25 service corporation.

26 Sec. 3. Section 20-1068, Arizona Revised Statutes, is amended to
27 read:

28 20-1068. Statutory construction and relationship to other
29 laws

30 A. Except as they relate to an insurer or a hospital or medical
31 service corporation, the provisions of this title are applicable to health
32 care services organizations only as provided in this article, chapter 1 of
33 this title, chapter 2, article 12 of this title, chapter 3, articles 1, 2
34 and 7 of this title, sections 20-223, 20-233, 20-234, 20-261, ~~20-261.01,~~
35 ~~20-261.02, 20-261.03, 20-261.04,~~ 20-1133, 20-1135, 20-1379 and 20-1380,
36 section 20-1408, subsections C through K, chapter 6, article 16 of this
37 title and chapters 11, 15, 17, 20, ~~and~~ 21 AND 30 of this title.

38 B. Unless preempted under federal law or unless federal law imposes
39 greater requirements than this section, this section applies to a provider
40 sponsored health care services organization.

41 Sec. 4. Section 20-1085, Arizona Revised Statutes, is amended to
42 read:

43 20-1085. Capital

44 A. To qualify for initial authority to transact business a domestic
45 life and disability reinsurer shall possess and thereafter maintain

1 minimum required capital stock in the amount of ~~one hundred thousand~~
2 ~~dollars~~ \$100,000.

3 B. To qualify for initial authority to transact business, an
4 unaffiliated credit life and disability reinsurer shall possess and
5 thereafter maintain unimpaired capital stock in the amount of ~~seventy-five~~
6 ~~thousand dollars~~ \$75,000. An unaffiliated credit life and disability
7 reinsurer may comply with this subsection with a clean, irrevocable and
8 unconditional letter of credit that contains an evergreen clause and that
9 is payable to the director in trust for the protection of all ceding
10 insurers, affected policyholders and related expenses and that is issued
11 or confirmed by a qualified United States financial institution as defined
12 in section ~~20-261.03~~ 20-3601, subsection A. For the purposes of this
13 subsection, an evergreen clause provides for automatic renewal.

14 Sec. 5. Section 20-1094.01, Arizona Revised Statutes, is amended to
15 read:

16 20-1094.01. Reserve requirements

17 A. An unaffiliated credit life and disability reinsurer shall
18 secure liabilities that are assumed under a reinsurance agreement subject
19 to approval pursuant to this article in any of the following:

- 20 1. With funds withheld.
- 21 2. With funds that are maintained in a trust fund that complies
22 with section ~~20-261.02~~ 20-3603 and in an amount that is not less than one
23 hundred ten ~~per cent~~ PERCENT of the amount of the liabilities assumed.
- 24 3. With clean, irrevocable and unconditional letters of credit that
25 comply with section ~~20-261.02~~ 20-3603, subsection B.

26 B. For the purposes of this section, the director shall value
27 securities in the manner prescribed in sections 20-511 and 20-512.

28 Sec. 6. Section 20-1098.03, Arizona Revised Statutes, is amended to
29 read:

30 20-1098.03. Minimum capital and surplus; letter of credit;
31 borrowed surplus

32 A. The director shall not issue a license to a captive insurer
33 unless the insurer possesses and thereafter maintains minimum unimpaired
34 paid-in capital and surplus in combination as follows:

- 35 1. In the case of a pure captive insurer, at least ~~two hundred~~
36 ~~fifty thousand dollars~~ \$250,000.
- 37 2. In the case of a group captive insurer, at least ~~five hundred~~
38 ~~thousand dollars~~ \$500,000.
- 39 3. In the case of an agency captive insurer, at least ~~five hundred~~
40 ~~thousand dollars~~ \$500,000.
- 41 4. In the case of a protected cell captive insurer, at least ~~five~~
42 ~~hundred thousand dollars~~ \$500,000.
- 43 5. In the case of a captive insurer that is organized as a
44 reciprocal insurer, at least ~~five hundred thousand dollars~~ \$500,000.

1 6. In the case of a pure or group captive insurer that transacts
2 only reinsurance, one-half of the applicable amount prescribed in
3 paragraph 1 or 2 of this subsection.

4 B. All minimum capital and surplus requirements shall be in the
5 form of cash or an irrevocable and unconditional letter of credit that
6 contains an evergreen clause, that is payable to, filed with and held by
7 the director in trust for the protection of all policyholders, ceding
8 insurers and related expenses and that meets the following conditions:

9 1. The letter of credit shall be issued or confirmed by a qualified
10 United States financial institution as defined in section ~~20-261.03~~
11 ~~20-3601~~, subsection A and shall comply with the requirements prescribed by
12 the director.

13 2. The captive insurer shall not be directly or contingently liable
14 for any letter of credit comprising its capital or surplus, and its assets
15 shall not be pledged as security for the letter of credit.

16 C. The director may prescribe additional capital and surplus
17 requirements based on the type, volume and nature of insurance. The
18 captive insurer may pledge, with the approval of the department, any
19 additional prescribed capital and surplus, whether in the form of cash,
20 another allowable asset or any irrevocable and unconditional letter of
21 credit that contains an evergreen clause.

22 D. Notwithstanding any other provision of this title, a written
23 agreement under which a captive insurer borrows monies that are required
24 to be repaid only out of the insurer's surplus in excess of that
25 stipulated in the agreement may provide for interest at any rate agreed on
26 and approved by the director.

27 E. A captive insurer that is established solely for the purpose of
28 reinsuring risks as part of a program filed and approved by the director
29 to facilitate the securitization of risks ceded to the captive insurer may
30 be a party to contracts that provide that subsequent purchasers of
31 interests in the program assume the interests on a nonrecourse basis, both
32 as to the captive insurer and any affiliate.

33 Sec. 7. Section 20-1098.11, Arizona Revised Statutes, is amended to
34 read:

35 20-1098.11. Reinsurance

36 A. Except as provided in subsection C of this section or otherwise
37 with the approval of the director, a captive insurer may reinsure risks
38 only pursuant to the limitations prescribed in section 20-1098.01,
39 subsection A.

40 B. A captive insurer may take credit for reserves on risks or
41 portions of risks ceded to a reinsurer that is in compliance with ~~sections~~
42 ~~SECTION 20-261 and 20-261.01 through 20-261.04~~ CHAPTER 30 OF THIS TITLE.
43 Prior approval of the director shall be required for ceding or taking
44 credit for the reserves on risks or portions of risks ceded to a reinsurer

1 if the reinsurer is not in compliance with ~~sections~~ SECTION 20-261 and
2 ~~20-261.01 through 20-261.04~~ CHAPTER 30 OF THIS TITLE.

3 C. A captive insurer may cede ~~to~~ and assume risks that are not
4 within the limitations prescribed in section 20-1098.01, subsection A,
5 subject to the approval of the director.

6 Sec. 8. Section 20-1557, Arizona Revised Statutes, is amended to
7 read:

8 20-1557. Reinsurance

9 A. If a mortgage guaranty insurance company obtains reinsurance
10 from an insurance company ~~which~~ THAT is properly licensed to provide such
11 reinsurance or from an appropriate governmental agency, the mortgage
12 guaranty insurer and the reinsurer shall establish and maintain the
13 reserves required in this article in appropriate proportions in relation
14 to the risk retained by the original insurer and ceded to the assuming
15 reinsurer so that the total reserves established shall not be less than
16 the reserves required by this article.

17 B. Section 20-261, subsection D does not apply to a mortgage
18 guaranty insurer.

19 C. Notwithstanding section 20-261, subsection A, a domestic
20 mortgage guaranty insurer may reinsure its risks with a solvent insurer
21 that has surplus to policyholders less than the minimum capital stock
22 prescribed in section 20-1542 if the reinsurance agreement is approved by
23 the director or the agreement both:

24 1. Cedes to a reinsurer that insures or reinsures only mortgage
25 guaranty insurance.

26 2. Requires that reserves ceded to the reinsurer are secured in the
27 manner prescribed in section ~~20-261.02~~ 20-3603.

28 D. A mortgage guaranty insurer shall file a report with the
29 director that includes all information regarding its reinsurance
30 agreements as required by the director. The mortgage guaranty insurer
31 shall file the report prescribed in this subsection with its annual and
32 quarterly financial statements.

33 E. Except as provided in subsection B of this section, this section
34 does not alter or diminish a domestic mortgage guaranty insurer's
35 obligation to report to the director, file documents with the director or
36 obtain the director's approval as prescribed in this title.

37 F. Notwithstanding title 39, chapter 1, the information submitted
38 pursuant to subsection D of this section is confidential and proprietary
39 and the director shall not make the information available for public
40 inspection without the written consent of the domestic mortgage guaranty
41 insurer, except that:

42 1. This subsection does not prevent the department's use of the
43 information for any regulatory purpose, disciplinary action or hearing.

1 2. The director shall release the information if the information is
2 required by a subpoena issued in connection with an administrative, civil
3 or criminal investigation by a government agency.

4 3. In a civil action or contested case in which the domestic
5 mortgage guaranty insurer that submitted the information is a party, any
6 other party to the action or case may obtain the information if the party
7 seeking to discover the information shows all of the following:

8 (a) The information sought is relevant to and necessary for the
9 furtherance of the action or case.

10 (b) The information sought is not available from any other
11 nonconfidential source.

12 (c) A subpoena issued by a judicial or administrative officer of
13 competent jurisdiction has been submitted to the director.

14 4. The director may disclose the information to a public official
15 who has jurisdiction over the regulation of insurance in another state if
16 the public official agrees in writing to maintain the confidentiality of
17 the information and the laws of the state in which the public official
18 serves allow or require the information to be and remain confidential.

19 Sec. 9. Title 20, Arizona Revised Statutes, is amended by adding
20 chapter 30, to read:

21 CHAPTER 30

22 CREDIT FOR REINSURANCE

23 ARTICLE 1. GENERAL PROVISIONS

24 20-3601. Definitions of qualified United States financial
25 institution

26 A. FOR THE PURPOSES OF SECTION 20-3603, SUBSECTION B, PARAGRAPH 3,
27 "QUALIFIED UNITED STATES FINANCIAL INSTITUTION" MEANS AN INSTITUTION THAT
28 BOTH:

29 1. IS:

30 (a) ORGANIZED OR, IN THE CASE OF A UNITED STATES OFFICE OF A
31 FOREIGN BANKING ORGANIZATION, IS LICENSED UNDER THE LAWS OF THE UNITED
32 STATES OR ANY STATE OF THE UNITED STATES.

33 (b) REGULATED, SUPERVISED AND EXAMINED BY UNITED STATES FEDERAL OR
34 STATE AUTHORITIES HAVING REGULATORY AUTHORITY OVER BANKS AND TRUST
35 COMPANIES.

36 2. HAS BEEN DETERMINED BY EITHER THE DIRECTOR OR THE SECURITIES
37 VALUATION OFFICE OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS TO
38 MEET SUCH STANDARDS OF FINANCIAL CONDITION AND STANDING AS ARE CONSIDERED
39 NECESSARY AND APPROPRIATE TO REGULATE THE QUALITY OF FINANCIAL
40 INSTITUTIONS WHOSE LETTERS OF CREDIT WILL BE ACCEPTABLE TO THE DIRECTOR.

41 B. FOR THE PURPOSES OF THE PROVISIONS OF THIS ARTICLE THAT SPECIFY
42 THE INSTITUTIONS THAT ARE ELIGIBLE TO ACT AS A FIDUCIARY OF A TRUST,
43 "QUALIFIED UNITED STATES FINANCIAL INSTITUTION" MEANS AN INSTITUTION THAT
44 IS BOTH:

1 1. ORGANIZED OR, IN THE CASE OF A UNITED STATES BRANCH OR AGENCY
2 OFFICE OF A FOREIGN BANKING ORGANIZATION, IS LICENSED UNDER THE LAWS OF
3 THE UNITED STATES OR ANY STATE OF THE UNITED STATES AND THAT HAS BEEN
4 GRANTED AUTHORITY TO OPERATE WITH FIDUCIARY POWERS.

5 2. REGULATED, SUPERVISED AND EXAMINED BY FEDERAL OR STATE
6 AUTHORITIES HAVING REGULATORY AUTHORITY OVER BANKS AND TRUST COMPANIES.

7 20-3602. Credit allowed a domestic ceding insurer; definition

8 A. A DOMESTIC CEDING INSURER SHALL BE ALLOWED A CREDIT FOR
9 REINSURANCE AS EITHER AN ASSET OR A REDUCTION FROM LIABILITY ON ACCOUNT OF
10 REINSURANCE CEDED ONLY WHEN THE REINSURER MEETS THE REQUIREMENTS OF
11 SUBSECTION C, D, E, F, G, H OR M OF THIS SECTION. THE DIRECTOR MAY ADOPT
12 RULES PURSUANT TO SECTION 20-3604 THAT SPECIFY ADDITIONAL REQUIREMENTS
13 RELATING TO OR SETTING FORTH ANY OF THE FOLLOWING:

14 1. THE VALUATION OF ASSETS OR RESERVE CREDITS.

15 2. THE AMOUNT AND FORMS OF SECURITY SUPPORTING REINSURANCE
16 ARRANGEMENTS DESCRIBED IN SECTION 20-3603, SUBSECTION B.

17 3. THE CIRCUMSTANCES PURSUANT TO WHICH CREDIT WILL BE REDUCED OR
18 ELIMINATED.

19 B. CREDIT SHALL BE ALLOWED UNDER SUBSECTION C, D OR E OF THIS
20 SECTION ONLY FOR CESSIONS OF THOSE KINDS OR CLASSES OF BUSINESS THAT THE
21 ASSUMING INSURER IS LICENSED OR OTHERWISE ALLOWED TO WRITE OR ASSUME IN
22 ITS STATE OF DOMICILE OR, IN THE CASE OF A UNITED STATES BRANCH OF AN
23 ALIEN ASSUMING INSURER, IN THE STATE THROUGH WHICH IT IS ENTERED AND
24 LICENSED TO TRANSACT INSURANCE OR REINSURANCE. CREDIT SHALL BE ALLOWED
25 UNDER SUBSECTION E OR F OF THIS SECTION ONLY IF THE APPLICABLE
26 REQUIREMENTS OF SUBSECTION N HAVE BEEN SATISFIED.

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

30 D. CREDIT SHALL BE ALLOWED WHEN THE REINSURANCE IS CEDED TO AN
31 ASSUMING INSURER THAT IS ACCREDITED BY THE DIRECTOR AS A REINSURER IN THIS
32 STATE. TO BE ELIGIBLE FOR ACCREDITATION, A REINSURER SHALL DO ALL OF THE
33 FOLLOWING:

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

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

38 3. BE LICENSED TO TRANSACT INSURANCE OR REINSURANCE IN AT LEAST ONE
39 STATE OR, IN THE CASE OF A UNITED STATES BRANCH OF AN ALIEN ASSUMING
40 INSURER, BE ENTERED THROUGH AND LICENSED TO TRANSACT INSURANCE OR
41 REINSURANCE IN AT LEAST ONE STATE.

42 4. FILE ANNUALLY WITH THE DIRECTOR A COPY OF ITS ANNUAL STATEMENT
43 FILED WITH THE INSURANCE DEPARTMENT OF ITS STATE OF DOMICILE AND A COPY OF
44 ITS MOST RECENT AUDITED FINANCIAL STATEMENT.

1 5. DEMONSTRATE TO THE SATISFACTION OF THE DIRECTOR THAT IT HAS
2 ADEQUATE FINANCIAL CAPACITY TO MEET ITS REINSURANCE OBLIGATIONS AND IS
3 OTHERWISE QUALIFIED TO ASSUME REINSURANCE FROM DOMESTIC INSURERS. AN
4 ASSUMING INSURER IS DEEMED TO MEET THIS REQUIREMENT AS OF THE TIME OF ITS
5 APPLICATION IF IT MAINTAINS A SURPLUS AS REGARDS POLICYHOLDERS OF AT LEAST
6 \$20,000,000 AND ITS ACCREDITATION HAS NOT BEEN DENIED BY THE DIRECTOR
7 WITHIN NINETY DAYS AFTER SUBMISSION OF ITS APPLICATION.

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

14 1. MAINTAINS A SURPLUS AS REGARDS POLICYHOLDERS OF AT LEAST
15 \$20,000,000. THIS REQUIREMENT DOES NOT APPLY TO REINSURANCE CEDED AND
16 ASSUMED PURSUANT TO POOLING ARRANGEMENTS AMONG INSURERS IN THE SAME
17 HOLDING COMPANY SYSTEM.

18 2. SUBMITS TO THE AUTHORITY OF THIS STATE TO EXAMINE ITS BOOKS AND
19 RECORDS.

20 F. THE FOLLOWING APPLY WHEN CREDIT IS ALLOWED WHEN THE REINSURANCE
21 IS CEDED TO AN ASSUMING INSURER THAT MAINTAINS A TRUST FUND FOR THE
22 PAYMENT OF CLAIMS:

23 1. 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 20-3601, SUBSECTION B FOR THE
26 PAYMENT OF THE VALID CLAIMS OF ITS UNITED STATES CEDING INSURERS, THEIR
27 ASSIGNS AND SUCCESSORS IN INTEREST. TO ENABLE THE DIRECTOR TO DETERMINE
28 THE SUFFICIENCY OF THE TRUST FUND, THE ASSUMING INSURER SHALL REPORT
29 ANNUALLY TO THE DIRECTOR INFORMATION THAT IS SUBSTANTIALLY THE SAME AS THE
30 INFORMATION LICENSED INSURERS ARE REQUIRED TO REPORT ON THE NATIONAL
31 ASSOCIATION OF INSURANCE COMMISSIONERS ANNUAL STATEMENT FORM. THE
32 ASSUMING INSURER SHALL SUBMIT TO EXAMINATION OF ITS BOOKS AND RECORDS BY
33 THE DIRECTOR AND BEAR THE EXPENSE OF EXAMINATION.

34 2. CREDIT FOR REINSURANCE MAY NOT BE GRANTED UNDER THIS SUBSECTION
35 UNLESS THE FORM OF THE TRUST AND ANY AMENDMENTS TO THE TRUST HAVE BEEN
36 APPROVED BY EITHER:

37 (a) THE INSURANCE COMMISSIONER OF THE STATE WHERE THE TRUST IS
38 DOMICILED.

39 (b) THE INSURANCE COMMISSIONER OF ANOTHER STATE WHO, PURSUANT TO
40 THE TERMS OF THE TRUST INSTRUMENT, HAS ACCEPTED PRINCIPAL REGULATORY
41 OVERSIGHT OF THE TRUST.

42 3. THE FORM OF THE TRUST AND ANY TRUST AMENDMENTS ALSO SHALL BE
43 FILED WITH THE INSURANCE COMMISSIONER OF EVERY STATE IN WHICH THE CEDING
44 INSURER BENEFICIARIES OF THE TRUST ARE DOMICILED. THE TRUST INSTRUMENT
45 SHALL PROVIDE THAT CONTESTED CLAIMS SHALL BE VALID AND ENFORCEABLE ON THE

1 FINAL ORDER OF ANY COURT OF COMPETENT JURISDICTION IN THE UNITED STATES.
2 THE TRUST SHALL VEST LEGAL TITLE TO ITS ASSETS IN ITS TRUSTEES FOR THE
3 BENEFIT OF THE ASSUMING INSURER'S UNITED STATES CEDING INSURERS, THEIR
4 ASSIGNS AND SUCCESSORS IN INTEREST. THE TRUST AND THE ASSUMING INSURER
5 SHALL BE SUBJECT TO EXAMINATION AS DETERMINED BY THE DIRECTOR.

6 4. THE TRUST SHALL REMAIN IN EFFECT FOR AS LONG AS THE ASSUMING
7 INSURER HAS OUTSTANDING OBLIGATIONS DUE UNDER THE REINSURANCE AGREEMENTS
8 SUBJECT TO THE TRUST. NOT LATER THAN FEBRUARY 28 OF EACH YEAR, THE
9 TRUSTEE OF THE TRUST SHALL REPORT TO THE DIRECTOR IN WRITING THE BALANCE
10 OF THE TRUST AND LISTING THE TRUST'S INVESTMENTS AT THE PRECEDING YEAR END
11 AND SHALL CERTIFY THE DATE OF TERMINATION OF THE TRUST, IF SO PLANNED, OR
12 CERTIFY THAT THE TRUST WILL NOT EXPIRE BEFORE THE FOLLOWING DECEMBER 31.

13 5. THE FOLLOWING REQUIREMENTS APPLY TO THE FOLLOWING CATEGORIES OF
14 ASSUMING INSURER:

15 (a) THE TRUST FUND FOR A SINGLE ASSUMING INSURER SHALL CONSIST OF
16 MONIES IN TRUST IN AN AMOUNT NOT LESS THAN THE ASSUMING INSURER'S
17 LIABILITIES ATTRIBUTABLE TO REINSURANCE CEDED BY UNITED STATES CEDING
18 INSURERS, AND, IN ADDITION, THE ASSUMING INSURER SHALL MAINTAIN A TRUSTEED
19 SURPLUS OF AT LEAST \$20,000,000, EXCEPT AS PROVIDED IN SUBDIVISION (b) OF
20 THIS PARAGRAPH.

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

37 (c) IN THE CASE OF A GROUP, INCLUDING INCORPORATED AND INDIVIDUAL
38 UNINCORPORATED UNDERWRITERS, ALL OF THE FOLLOWING APPLY:

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

1 (ii) FOR REINSURANCE CEDED UNDER REINSURANCE AGREEMENTS WITH AN
2 INCEPTION DATE ON OR BEFORE DECEMBER 31, 1992, AND NOT AMENDED OR RENEWED
3 AFTER THAT DATE, NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE
4 TRUST SHALL CONSIST OF A TRUSTEED ACCOUNT IN AN AMOUNT NOT LESS THAN THE
5 RESPECTIVE UNDERWRITERS' SEVERAL INSURANCE AND REINSURANCE LIABILITIES
6 ATTRIBUTABLE TO BUSINESS WRITTEN IN THE UNITED STATES.

7 (iii) IN ADDITION TO THE TRUSTS DESCRIBED IN ITEMS (i) AND (ii) OF
8 THIS SUBDIVISION, THE GROUP SHALL MAINTAIN IN TRUST A TRUSTEED SURPLUS OF
9 WHICH \$100,000,000 SHALL BE HELD JOINTLY FOR THE BENEFIT OF THE UNITED
10 STATES DOMICILED CEDING INSURERS OF ANY MEMBER OF THE GROUP FOR ALL YEARS
11 OF ACCOUNT.

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

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

22 (d) IN THE CASE OF A GROUP OF INCORPORATED UNDERWRITERS UNDER
23 COMMON ADMINISTRATION, THE GROUP SHALL MEET THE FOLLOWING REQUIREMENTS:

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

27 (ii) MAINTAIN AGGREGATE POLICYHOLDERS' SURPLUS OF AT LEAST
28 \$10,000,000,000.

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

33 (iv) MAINTAIN A JOINT TRUSTEED SURPLUS OF WHICH \$100,000,000 SHALL
34 BE HELD JOINTLY FOR THE BENEFIT OF UNITED STATES DOMICILED CEDING INSURERS
35 OF ANY MEMBER OF THE GROUP AS ADDITIONAL SECURITY FOR THESE LIABILITIES.

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

42 G. CREDIT SHALL BE ALLOWED WHEN THE REINSURANCE IS CEDED TO AN
43 ASSUMING INSURER THAT HAS BEEN CERTIFIED BY THE DIRECTOR AS A REINSURER IN
44 THIS STATE AND THAT SECURES ITS OBLIGATIONS IN ACCORDANCE WITH THE
45 REQUIREMENTS OF THIS SUBSECTION, AND ALL OF THE FOLLOWING APPLY:

1 1. TO BE ELIGIBLE FOR CERTIFICATION, THE ASSUMING INSURER SHALL
2 MEET THE FOLLOWING REQUIREMENTS:

3 (a) THE ASSUMING INSURER MUST BE DOMICILED AND LICENSED TO TRANSACT
4 INSURANCE OR REINSURANCE IN A QUALIFIED JURISDICTION, AS DETERMINED BY THE
5 DIRECTOR PURSUANT TO PARAGRAPH 3 OF THIS SUBSECTION.

6 (b) THE ASSUMING INSURER MUST MAINTAIN MINIMUM CAPITAL AND SURPLUS,
7 OR ITS EQUIVALENT, IN AN AMOUNT TO BE DETERMINED BY THE DIRECTOR PURSUANT
8 TO RULE.

9 (c) THE ASSUMING INSURER MUST MAINTAIN FINANCIAL STRENGTH RATINGS
10 FROM TWO OR MORE RATING AGENCIES DEEMED ACCEPTABLE BY THE DIRECTOR
11 PURSUANT TO RULE.

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

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

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

23 2. AN ASSOCIATION THAT INCLUDES INCORPORATED AND INDIVIDUAL
24 UNINCORPORATED UNDERWRITERS MAY BE A CERTIFIED REINSURER. TO BE ELIGIBLE
25 FOR CERTIFICATION, IN ADDITION TO SATISFYING THE REQUIREMENTS PRESCRIBED
26 IN PARAGRAPH 1 OF THIS SUBSECTION:

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

33 (b) THE INCORPORATED MEMBERS OF THE ASSOCIATION MAY 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
36 THE 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
42 INDEPENDENT PUBLIC ACCOUNTANTS, OF EACH UNDERWRITER MEMBER OF THE
43 ASSOCIATION.

1 3. THE DIRECTOR SHALL CREATE AND PUBLISH A LIST OF QUALIFIED
2 JURISDICTIONS UNDER WHICH AN ASSUMING INSURER THAT IS LICENSED AND
3 DOMICILED IN A QUALIFIED JURISDICTION IS ELIGIBLE TO BE CONSIDERED FOR
4 CERTIFICATION BY THE DIRECTOR AS A CERTIFIED REINSURER, AND ALL OF THE
5 FOLLOWING APPLY:

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

20 (b) A LIST OF QUALIFIED JURISDICTIONS SHALL BE PUBLISHED THROUGH
21 THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS COMMITTEE PROCESS.
22 THE DIRECTOR SHALL CONSIDER THIS LIST IN DETERMINING QUALIFIED
23 JURISDICTIONS. IF THE DIRECTOR APPROVES A JURISDICTION AS QUALIFIED THAT
24 DOES NOT APPEAR ON THE LIST OF QUALIFIED JURISDICTIONS, THE DIRECTOR SHALL
25 PROVIDE THOROUGHLY DOCUMENTED JUSTIFICATION IN ACCORDANCE WITH CRITERIA TO
26 BE DEVELOPED UNDER RULE.

27 (c) UNITED STATES JURISDICTIONS THAT MEET THE REQUIREMENT FOR
28 ACCREDITATION UNDER THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS
29 FINANCIAL STANDARDS AND ACCREDITATION PROGRAM SHALL BE RECOGNIZED AS
30 QUALIFIED JURISDICTIONS.

31 (d) IF A CERTIFIED REINSURER'S DOMICILIARY JURISDICTION CEASES TO
32 BE A QUALIFIED JURISDICTION, THE DIRECTOR MAY SUSPEND THE REINSURER'S
33 CERTIFICATION INDEFINITELY, IN LIEU OF REVOCATION.

34 4. THE DIRECTOR SHALL ASSIGN A RATING TO EACH CERTIFIED REINSURER,
35 GIVING DUE CONSIDERATION TO THE FINANCIAL STRENGTH RATINGS THAT HAVE BEEN
36 ASSIGNED BY RATING AGENCIES DEEMED ACCEPTABLE TO THE DIRECTOR PURSUANT TO
37 RULE. THE DIRECTOR SHALL PUBLISH A LIST OF ALL CERTIFIED REINSURERS AND
38 THEIR RATINGS.

39 5. A CERTIFIED REINSURER SHALL SECURE OBLIGATIONS ASSUMED FROM
40 UNITED STATES CEDING INSURERS UNDER THIS SUBSECTION AT A LEVEL THAT IS
41 CONSISTENT WITH ITS RATING, AS SPECIFIED IN RULES ADOPTED BY THE DIRECTOR,
42 AND ALL OF THE FOLLOWING APPLY:

43 (a) FOR A DOMESTIC CEDING INSURER TO QUALIFY FOR FULL FINANCIAL
44 STATEMENT CREDIT FOR REINSURANCE CEDED TO A CERTIFIED REINSURER, THE
45 CERTIFIED REINSURER SHALL MAINTAIN SECURITY IN A FORM THAT IS ACCEPTABLE

1 TO THE DIRECTOR AND THAT IS CONSISTENT WITH SECTION 20-3603, OR IN A
2 MULTIBENEFICIARY TRUST IN ACCORDANCE WITH SUBSECTION F OF THIS SECTION,
3 EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION.

4 (b) IF A CERTIFIED REINSURER MAINTAINS A TRUST TO FULLY SECURE ITS
5 OBLIGATIONS SUBJECT TO SUBSECTION F OF THIS SECTION AND CHOOSES TO SECURE
6 ITS OBLIGATIONS INCURRED AS A CERTIFIED REINSURER IN THE FORM OF A
7 MULTIBENEFICIARY TRUST, THE CERTIFIED REINSURER SHALL MAINTAIN SEPARATE
8 TRUST ACCOUNTS FOR ITS OBLIGATIONS INCURRED UNDER REINSURANCE AGREEMENTS
9 ISSUED OR RENEWED AS A CERTIFIED REINSURER WITH REDUCED SECURITY AS
10 ALLOWED BY THIS SUBSECTION OR COMPARABLE LAWS OF OTHER UNITED STATES
11 JURISDICTIONS AND FOR ITS OBLIGATIONS SUBJECT TO SUBSECTION F OF THIS
12 SECTION. IT SHALL BE A CONDITION TO THE GRANT OF CERTIFICATION UNDER THIS
13 SUBSECTION THAT THE CERTIFIED REINSURER SHALL HAVE BOUND ITSELF, BY THE
14 LANGUAGE OF THE TRUST AND AGREEMENT WITH THE INSURANCE COMMISSIONER WITH
15 PRINCIPAL REGULATORY OVERSIGHT OF EACH SUCH TRUST ACCOUNT, TO FUND, ON
16 TERMINATION OF ANY SUCH TRUST ACCOUNT, OUT OF THE REMAINING SURPLUS OF
17 SUCH TRUST ANY DEFICIENCY OF ANY OTHER SUCH TRUST ACCOUNT.

18 (c) THE MINIMUM TRUSTEED SURPLUS REQUIREMENTS PROVIDED IN
19 SUBSECTION F OF THIS SECTION ARE NOT APPLICABLE WITH RESPECT TO A
20 MULTIBENEFICIARY TRUST MAINTAINED BY A CERTIFIED REINSURER FOR THE PURPOSE
21 OF SECURING OBLIGATIONS INCURRED UNDER THIS SUBSECTION, EXCEPT THAT SUCH A
22 TRUST SHALL MAINTAIN A MINIMUM TRUSTEED SURPLUS OF \$10,000,000.

23 (d) WITH RESPECT TO OBLIGATIONS INCURRED BY A CERTIFIED REINSURER
24 UNDER THIS SUBSECTION, IF THE SECURITY IS INSUFFICIENT, THE DIRECTOR SHALL
25 REDUCE THE ALLOWABLE CREDIT BY AN AMOUNT PROPORTIONATE TO THE DEFICIENCY,
26 AND MAY IMPOSE FURTHER REDUCTIONS IN ALLOWABLE CREDIT ON FINDING THAT
27 THERE IS A MATERIAL RISK THAT THE CERTIFIED REINSURER'S OBLIGATIONS WILL
28 NOT BE PAID IN FULL WHEN DUE.

29 (e) A CERTIFIED REINSURER WHOSE CERTIFICATION HAS BEEN TERMINATED
30 FOR ANY REASON SHALL BE TREATED AS A CERTIFIED REINSURER REQUIRED TO
31 SECURE ONE HUNDRED PERCENT OF ITS OBLIGATIONS. IF THE DIRECTOR CONTINUES
32 TO ASSIGN A HIGHER RATING AS ALLOWED BY OTHER PROVISIONS OF THIS SECTION,
33 THIS REQUIREMENT DOES NOT APPLY TO A CERTIFIED REINSURER IN INACTIVE
34 STATUS OR TO A REINSURER WHOSE CERTIFICATION HAS BEEN SUSPENDED. FOR THE
35 PURPOSES OF THIS SUBDIVISION, "TERMINATED" REFERS TO REVOCATION,
36 SUSPENSION, VOLUNTARY SURRENDER AND INACTIVE STATUS.

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

42 7. TO CONTINUE TO QUALIFY FOR A REDUCTION IN SECURITY FOR ITS
43 IN-FORCE BUSINESS, A CERTIFIED REINSURER THAT CEASES TO ASSUME NEW
44 BUSINESS IN THIS STATE MAY REQUEST TO MAINTAIN ITS CERTIFICATION IN
45 INACTIVE STATUS. AN INACTIVE CERTIFIED REINSURER SHALL CONTINUE TO COMPLY

1 WITH ALL APPLICABLE REQUIREMENTS OF THIS SUBSECTION, AND THE DIRECTOR
2 SHALL ASSIGN A RATING THAT TAKES INTO ACCOUNT, IF RELEVANT, THE REASONS
3 WHY THE REINSURER IS NOT ASSUMING NEW BUSINESS.

4 H. CREDIT SHALL BE ALLOWED WHEN THE REINSURANCE IS CEDED TO AN
5 ASSUMING INSURER MEETING EACH OF THE FOLLOWING CONDITIONS:

6 1. THE ASSUMING INSURER MUST HAVE ITS HEAD OFFICE OR BE DOMICILED
7 IN, AS APPLICABLE, AND BE LICENSED IN A RECIPROCAL JURISDICTION. A
8 RECIPROCAL JURISDICTION IS A JURISDICTION THAT MEETS ONE OF THE FOLLOWING:

9 (a) A NON-UNITED STATES JURISDICTION THAT IS SUBJECT TO AN IN-FORCE
10 COVERED AGREEMENT WITH THE UNITED STATES, EACH WITHIN ITS LEGAL AUTHORITY,
11 OR, IN THE CASE OF A COVERED AGREEMENT BETWEEN THE UNITED STATES AND THE
12 EUROPEAN UNION, THAT IS A MEMBER STATE OF THE EUROPEAN UNION.

13 (b) A UNITED STATES JURISDICTION THAT MEETS THE REQUIREMENTS FOR
14 ACCREDITATION UNDER THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS
15 FINANCIAL STANDARDS AND ACCREDITATION PROGRAM.

16 (c) A QUALIFIED JURISDICTION, AS DETERMINED BY THE DIRECTOR
17 PURSUANT TO SUBSECTION G, PARAGRAPH 3 OF THIS SECTION THAT IS NOT
18 OTHERWISE DESCRIBED IN SUBDIVISION (a) OR (b) OF THIS PARAGRAPH AND THAT
19 MEETS CERTAIN ADDITIONAL REQUIREMENTS, CONSISTENT WITH THE TERMS AND
20 CONDITIONS OF IN-FORCE COVERED AGREEMENTS, AS SPECIFIED BY THE DIRECTOR IN
21 RULE.

22 2. THE ASSUMING INSURER MUST HAVE AND MAINTAIN, ON AN ONGOING
23 BASIS, MINIMUM CAPITAL AND SURPLUS, OR ITS EQUIVALENT, CALCULATED
24 ACCORDING TO THE METHODOLOGY OF ITS DOMICILIARY JURISDICTION, IN AN AMOUNT
25 TO BE PRESCRIBED IN RULE. IF THE ASSUMING INSURER IS AN ASSOCIATION,
26 INCLUDING INCORPORATED AND INDIVIDUAL UNINCORPORATED UNDERWRITERS, IT MUST
27 HAVE AND MAINTAIN, ON AN ONGOING BASIS, MINIMUM CAPITAL AND SURPLUS
28 EQUIVALENTS, NET OF LIABILITIES, CALCULATED ACCORDING TO THE METHODOLOGY
29 APPLICABLE IN ITS DOMICILIARY JURISDICTION AND A CENTRAL FUND CONTAINING A
30 BALANCE IN AMOUNTS TO BE PRESCRIBED IN RULE.

31 3. THE ASSUMING INSURER MUST HAVE AND MAINTAIN, ON AN ONGOING
32 BASIS, A MINIMUM SOLVENCY OR CAPITAL RATIO, AS APPLICABLE, THAT IS
33 PRESCRIBED IN RULE. IF THE ASSUMING INSURER IS AN ASSOCIATION, INCLUDING
34 INCORPORATED AND INDIVIDUAL UNINCORPORATED UNDERWRITERS, IT MUST HAVE AND
35 MAINTAIN, ON AN ONGOING BASIS, A MINIMUM SOLVENCY OR CAPITAL RATIO IN THE
36 RECIPROCAL JURISDICTION WHERE THE ASSUMING INSURER HAS ITS HEAD OFFICE OR
37 IS DOMICILED, AS APPLICABLE, AND IS ALSO LICENSED.

38 4. THE ASSUMING INSURER MUST AGREE AND PROVIDE ADEQUATE ASSURANCE
39 TO THE DIRECTOR, IN A FORM SPECIFIED BY THE DIRECTOR PURSUANT TO RULE, AS
40 FOLLOWS:

41 (a) THE ASSUMING INSURER MUST PROVIDE A PROMPT WRITTEN NOTICE AND
42 EXPLANATION TO THE DIRECTOR IF IT FALLS BELOW THE MINIMUM REQUIREMENTS
43 PRESCRIBED IN PARAGRAPH 2 OR 3 OF THIS SUBSECTION OR IF ANY REGULATORY
44 ACTION IS TAKEN AGAINST IT FOR SERIOUS NONCOMPLIANCE WITH APPLICABLE LAW.

1 (b) THE ASSUMING INSURER MUST CONSENT IN WRITING TO THE
2 JURISDICTION OF THE COURTS OF THIS STATE AND TO THE APPOINTMENT OF THE
3 DIRECTOR AS AGENT FOR SERVICE OF PROCESS. THE DIRECTOR MAY REQUIRE THAT
4 CONSENT FOR SERVICE OF PROCESS BE PROVIDED TO THE DIRECTOR AND INCLUDED IN
5 EACH REINSURANCE AGREEMENT. THIS SUBDIVISION DOES NOT LIMIT, OR IN ANY
6 WAY ALTER, THE CAPACITY OF PARTIES TO A REINSURANCE AGREEMENT TO AGREE TO
7 ALTERNATIVE DISPUTE RESOLUTION MECHANISMS, EXCEPT TO THE EXTENT SUCH
8 AGREEMENTS ARE UNENFORCEABLE UNDER APPLICABLE INSOLVENCY OR DELINQUENCY
9 LAWS.

10 (c) THE ASSUMING INSURER MUST CONSENT IN WRITING TO PAY ALL FINAL
11 JUDGMENTS, WHEREVER ENFORCEMENT IS SOUGHT, OBTAINED BY A CEDING INSURER OR
12 ITS LEGAL SUCCESSOR, THAT HAVE BEEN DECLARED ENFORCEABLE IN THE
13 JURISDICTION WHERE THE JUDGMENT WAS OBTAINED.

14 (d) EACH REINSURANCE AGREEMENT MUST INCLUDE A PROVISION REQUIRING
15 THE ASSUMING INSURER TO PROVIDE SECURITY IN AN AMOUNT EQUAL TO ONE HUNDRED
16 PERCENT OF THE ASSUMING INSURER'S LIABILITIES ATTRIBUTABLE TO REINSURANCE
17 CEDED PURSUANT TO THAT AGREEMENT IF THE ASSUMING INSURER RESISTS
18 ENFORCEMENT OF A FINAL JUDGMENT THAT IS ENFORCEABLE UNDER THE LAW OF THE
19 JURISDICTION IN WHICH IT WAS OBTAINED OR A PROPERLY ENFORCEABLE
20 ARBITRATION AWARD, WHETHER OBTAINED BY THE CEDING INSURER OR BY ITS LEGAL
21 SUCCESSOR ON BEHALF OF ITS RESOLUTION ESTATE.

22 (e) THE ASSUMING INSURER MUST CONFIRM THAT IT IS NOT PRESENTLY
23 PARTICIPATING IN ANY SOLVENT SCHEME OF ARRANGEMENT THAT INVOLVES THIS
24 STATE'S CEDING INSURERS, AND AGREE TO NOTIFY THE CEDING INSURER AND THE
25 DIRECTOR AND TO PROVIDE SECURITY IN AN AMOUNT EQUAL TO ONE HUNDRED PERCENT
26 OF THE ASSUMING INSURER'S LIABILITIES TO THE CEDING INSURER, SHOULD THE
27 ASSUMING INSURER ENTER INTO SUCH A SOLVENT SCHEME OF ARRANGEMENT. THE
28 SECURITY SHALL BE IN A FORM THAT IS CONSISTENT WITH THE REQUIREMENTS
29 PRESCRIBED IN SUBSECTION G OF THIS SECTION AND SECTION 20-3603 AND AS
30 SPECIFIED BY THE DIRECTOR IN RULE.

31 5. IF REQUESTED BY THE DIRECTOR, THE ASSUMING INSURER OR ITS LEGAL
32 SUCCESSOR MUST PROVIDE ON BEHALF OF ITSELF AND ANY LEGAL PREDECESSORS
33 CERTAIN DOCUMENTATION TO THE DIRECTOR AS SPECIFIED BY THE DIRECTOR IN
34 RULE.

35 6. THE ASSUMING INSURER MUST MAINTAIN A PRACTICE OF PROMPT PAYMENT
36 OF CLAIMS UNDER REINSURANCE AGREEMENTS, PURSUANT TO CRITERIA PRESCRIBED IN
37 RULE.

38 7. THE ASSUMING INSURER'S SUPERVISORY AUTHORITY MUST CONFIRM TO THE
39 DIRECTOR ON AN ANNUAL BASIS, AS OF THE PRECEDING DECEMBER 31 OR AT THE
40 ANNUAL DATE OTHERWISE STATUTORILY REPORTED TO THE RECIPROCAL JURISDICTION,
41 THAT THE ASSUMING INSURER COMPLIES WITH THE REQUIREMENTS PRESCRIBED IN
42 PARAGRAPHS 2 AND 3 OF THIS SUBSECTION.

43 8. THE ASSUMING INSURER MAY PROVIDE THE DIRECTOR WITH ADDITIONAL
44 INFORMATION ON A VOLUNTARY BASIS.

1 I. THE DIRECTOR:

2 1. SHALL TIMELY CREATE AND PUBLISH A LIST OF RECIPROCAL
3 JURISDICTIONS THAT INCLUDES ANY RECIPROCAL JURISDICTION PRESCRIBED IN
4 SUBSECTION H, PARAGRAPH 1, SUBDIVISIONS (a) AND (b) OF THIS SECTION AND
5 SHALL CONSIDER INCLUDING ANY OTHER RECIPROCAL JURISDICTION INCLUDED ON THE
6 NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS LIST OF RECIPROCAL
7 JURISDICTIONS PUBLISHED THROUGH THE NATIONAL ASSOCIATION OF INSURANCE
8 COMMISSIONERS COMMITTEE PROCESS. THE DIRECTOR MAY APPROVE A JURISDICTION
9 THAT DOES NOT APPEAR ON THE NATIONAL ASSOCIATION OF INSURANCE
10 COMMISSIONERS LIST OF RECIPROCAL JURISDICTIONS IN ACCORDANCE WITH CRITERIA
11 TO BE DEVELOPED UNDER RULES ISSUED BY THE DIRECTOR.

12 2. MAY REMOVE A JURISDICTION FROM THE LIST OF RECIPROCAL
13 JURISDICTIONS ON A DETERMINATION THAT THE JURISDICTION NO LONGER MEETS THE
14 REQUIREMENTS OF A RECIPROCAL JURISDICTION, IN ACCORDANCE WITH A PROCESS
15 PRESCRIBED IN RULES ISSUED BY THE DIRECTOR, EXCEPT THAT THE DIRECTOR SHALL
16 NOT REMOVE FROM THE LIST A RECIPROCAL JURISDICTION PRESCRIBED IN
17 SUBSECTION H, PARAGRAPH 1, SUBDIVISIONS (a) AND (b) OF THIS SECTION. ON
18 REMOVAL OF A RECIPROCAL JURISDICTION FROM THE LIST, CREDIT FOR REINSURANCE
19 CEDED TO AN ASSUMING INSURER THAT HAS ITS HOME OFFICE OR IS DOMICILED IN
20 THAT JURISDICTION SHALL BE ALLOWED, IF OTHERWISE ALLOWED BY LAW.

21 3. SHALL TIMELY CREATE AND PUBLISH A LIST OF ASSUMING INSURERS THAT
22 HAVE SATISFIED THE CONDITIONS PRESCRIBED IN THIS SECTION AND TO WHICH
23 CESSIONS SHALL BE GRANTED CREDIT IN ACCORDANCE WITH THIS SECTION. THE
24 DIRECTOR MAY ADD AN ASSUMING INSURER TO THE LIST IF A NATIONAL ASSOCIATION
25 OF INSURANCE COMMISSIONERS ACCREDITED JURISDICTION HAS ADDED THE ASSUMING
26 INSURER TO A LIST OF SUCH ASSUMING INSURERS OR IF, ON INITIAL ELIGIBILITY,
27 THE ASSUMING INSURER SUBMITS THE INFORMATION TO THE DIRECTOR AS REQUIRED
28 UNDER SUBSECTION H, PARAGRAPH 4 OF THIS SECTION AND COMPLIES WITH ANY
29 ADDITIONAL REQUIREMENTS THAT THE DIRECTOR MAY IMPOSE BY RULE, EXCEPT TO
30 THE EXTENT THAT THEY CONFLICT WITH AN APPLICABLE COVERED AGREEMENT.

31 4. MAY REVOKE OR SUSPEND THE ELIGIBILITY OF AN ASSUMING INSURER FOR
32 RECOGNITION UNDER THIS SUBSECTION IN ACCORDANCE WITH PROCEDURES PRESCRIBED
33 IN RULE, IF THE DIRECTOR DETERMINES THAT THE ASSUMING INSURER NO LONGER
34 MEETS ONE OR MORE OF THE REQUIREMENTS UNDER THIS SECTION. WHILE THE
35 ASSUMING INSURER'S ELIGIBILITY IS SUSPENDED, A REINSURANCE AGREEMENT
36 ISSUED, AMENDED OR RENEWED AFTER THE EFFECTIVE DATE OF THE SUSPENSION DOES
37 NOT QUALIFY FOR CREDIT EXCEPT TO THE EXTENT THAT THE ASSUMING INSURER'S
38 OBLIGATIONS UNDER THE CONTRACT ARE SECURED IN ACCORDANCE WITH SECTION
39 20-3603. IF THE ASSUMING INSURER'S ELIGIBILITY IS REVOKED, CREDIT FOR
40 REINSURANCE MAY NOT BE GRANTED AFTER THE EFFECTIVE DATE OF THE REVOCATION
41 WITH RESPECT TO ANY REINSURANCE AGREEMENTS ENTERED INTO BY THE ASSUMING
42 INSURER, INCLUDING REINSURANCE AGREEMENTS ENTERED INTO BEFORE THE DATE OF
43 REVOCATION, EXCEPT TO THE EXTENT THAT THE ASSUMING INSURER'S OBLIGATIONS
44 UNDER THE CONTRACT ARE SECURED IN A FORM ACCEPTABLE TO THE DIRECTOR AND
45 ARE CONSISTENT WITH THE PARAMETERS PRESCRIBED IN SECTION 20-3603.

1 J. IF SUBJECT TO A LEGAL PROCESS OF REHABILITATION, LIQUIDATION OR
2 CONSERVATION, AS APPLICABLE, THE CEDING INSURER, OR ITS REPRESENTATIVE,
3 MAY SEEK AND, IF DETERMINED APPROPRIATE BY THE COURT IN WHICH THE
4 PROCEEDINGS ARE PENDING, MAY OBTAIN AN ORDER REQUIRING THAT THE ASSUMING
5 INSURER POST SECURITY FOR ALL OUTSTANDING CEDED LIABILITIES.

6 K. SUBSECTION H OF THIS SECTION DOES NOT:

7 1. LIMIT OR IN ANY WAY ALTER THE CAPACITY OF PARTIES TO A
8 REINSURANCE AGREEMENT TO AGREE ON REQUIREMENTS FOR SECURITY OR OTHER TERMS
9 IN THAT REINSURANCE AGREEMENT, EXCEPT AS EXPRESSLY PROHIBITED BY THIS
10 ARTICLE OR ANOTHER APPLICABLE LAW OR RULE.

11 2. AUTHORIZE AN ASSUMING INSURER TO WITHDRAW OR REDUCE THE SECURITY
12 PROVIDED UNDER ANY REINSURANCE AGREEMENT EXCEPT AS ALLOWED BY THE TERMS OF
13 THE AGREEMENT.

14 3. LIMIT OR IN ANY WAY ALTER THE CAPACITY OF PARTIES TO ANY
15 REINSURANCE AGREEMENT TO RENEGOTIATE THE AGREEMENT.

16 L. CREDIT MAY BE TAKEN UNDER SUBSECTION H OF THIS SECTION ONLY FOR
17 REINSURANCE AGREEMENTS ENTERED INTO, AMENDED OR RENEWED ON OR AFTER THE
18 EFFECTIVE DATE OF THIS SECTION, AND ONLY WITH RESPECT TO LOSSES INCURRED
19 AND RESERVES REPORTED ON OR AFTER THE LATER OF THE DATE ON WHICH THE
20 ASSUMING INSURER HAS MET ALL ELIGIBILITY REQUIREMENTS PURSUANT TO
21 SUBSECTION H OF THIS SECTION AND THE EFFECTIVE DATE OF THE NEW REINSURANCE
22 AGREEMENT, AMENDMENT OR RENEWAL. THIS SUBSECTION DOES NOT ALTER OR IMPAIR
23 A CEDING INSURER'S RIGHT TO TAKE CREDIT FOR REINSURANCE, TO THE EXTENT
24 THAT CREDIT IS NOT AVAILABLE UNDER THIS SECTION, AS LONG AS THE
25 REINSURANCE QUALIFIES FOR CREDIT UNDER ANY OTHER APPLICABLE PROVISION OF
26 THIS ARTICLE.

27 M. CREDIT SHALL BE ALLOWED WHEN THE REINSURANCE IS CEDED TO AN
28 ASSUMING INSURER NOT MEETING THE REQUIREMENTS OF SUBSECTION C, D, E, F, G
29 OR H OF THIS SECTION, BUT ONLY AS TO THE INSURANCE OF RISKS LOCATED IN
30 JURISDICTIONS WHERE THE REINSURANCE IS REQUIRED BY APPLICABLE LAW OR
31 REGULATION OF THAT JURISDICTION.

32 N. IF THE ASSUMING INSURER IS NOT LICENSED, ACCREDITED OR CERTIFIED
33 TO TRANSACT INSURANCE OR REINSURANCE IN THIS STATE, THE CREDIT ALLOWED BY
34 SUBSECTIONS E AND F OF THIS SECTION MAY NOT BE ALLOWED UNLESS THE ASSUMING
35 INSURER AGREES IN THE REINSURANCE AGREEMENTS:

36 1. THAT IF THE ASSUMING INSURER FAILS TO PERFORM ITS OBLIGATIONS
37 UNDER THE TERMS OF THE REINSURANCE AGREEMENT, THE ASSUMING INSURER, AT THE
38 REQUEST OF THE CEDING INSURER, WILL SUBMIT TO THE JURISDICTION OF ANY
39 COURT OF COMPETENT JURISDICTION IN ANY STATE OF THE UNITED STATES, WILL
40 COMPLY WITH ALL REQUIREMENTS NECESSARY TO GIVE THE COURT JURISDICTION AND
41 WILL ABIDE BY THE FINAL DECISION OF THE COURT OR OF ANY APPELLATE COURT IN
42 THE EVENT OF AN APPEAL. THIS SUBSECTION IS NOT INTENDED TO CONFLICT WITH
43 OR OVERRIDE THE OBLIGATION OF THE PARTIES TO A REINSURANCE AGREEMENT TO
44 ARBITRATE THEIR DISPUTES, IF THIS OBLIGATION IS CREATED IN THE AGREEMENT.

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

5 O. IF THE ASSUMING INSURER DOES NOT MEET THE REQUIREMENTS
6 PRESCRIBED IN SUBSECTION C, D, E OR H OF THIS SECTION, THE CREDIT ALLOWED
7 BY SUBSECTION F OR G OF THIS SECTION MAY NOT BE ALLOWED UNLESS THE
8 ASSUMING INSURER AGREES IN THE TRUST AGREEMENTS TO THE FOLLOWING
9 CONDITIONS:

10 1. NOTWITHSTANDING ANY OTHER PROVISIONS IN THE TRUST INSTRUMENT, IF
11 THE TRUST FUND IS INADEQUATE BECAUSE IT CONTAINS AN AMOUNT THAT IS LESS
12 THAN THE AMOUNT REQUIRED BY SUBSECTION F, PARAGRAPH 5 OF THIS SECTION, OR
13 IF THE GRANTOR OF THE TRUST HAS BEEN DECLARED INSOLVENT OR PLACED INTO
14 RECEIVERSHIP, REHABILITATION, LIQUIDATION OR SIMILAR PROCEEDINGS UNDER THE
15 LAWS OF ITS STATE OR COUNTRY OF DOMICILE, THE TRUSTEE SHALL COMPLY WITH AN
16 ORDER OF THE INSURANCE COMMISSIONER WITH REGULATORY OVERSIGHT OVER THE
17 TRUST OR WITH AN ORDER OF A COURT OF COMPETENT JURISDICTION DIRECTING THE
18 TRUSTEE TO TRANSFER TO THE INSURANCE COMMISSIONER WITH REGULATORY
19 OVERSIGHT ALL OF THE ASSETS OF THE TRUST FUND.

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

24 3. IF THE INSURANCE COMMISSIONER WITH REGULATORY OVERSIGHT
25 DETERMINES THAT THE ASSETS OF THE TRUST FUND OR ANY PART OF THE ASSETS ARE
26 NOT NECESSARY TO SATISFY THE CLAIMS OF THE UNITED STATES CEDING INSURERS
27 OF THE GRANTOR OF THE TRUST, THE ASSETS OR PART OF THE ASSETS SHALL BE
28 RETURNED BY THE INSURANCE COMMISSIONER WITH REGULATORY OVERSIGHT TO THE
29 TRUSTEE FOR DISTRIBUTION IN ACCORDANCE WITH THE TRUST AGREEMENT.

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

32 P. IF AN ACCREDITED OR CERTIFIED REINSURER CEASES TO MEET THE
33 REQUIREMENTS FOR ACCREDITATION OR CERTIFICATION, THE DIRECTOR MAY SUSPEND
34 OR REVOKE THE REINSURER'S ACCREDITATION OR CERTIFICATION, AND THE
35 FOLLOWING APPLY:

36 1. THE DIRECTOR MUST GIVE THE REINSURER NOTICE AND AN OPPORTUNITY
37 FOR A HEARING. THE SUSPENSION OR REVOCATION MAY NOT TAKE EFFECT UNTIL
38 AFTER THE DIRECTOR'S ORDER ON THE HEARING, UNLESS EITHER:

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

40 (b) THE DIRECTOR'S ORDER IS BASED ON REGULATORY ACTION BY THE
41 REINSURER'S DOMICILIARY JURISDICTION OR THE VOLUNTARY SURRENDER OR
42 TERMINATION OF THE REINSURER'S ELIGIBILITY TO TRANSACT INSURANCE OR
43 REINSURANCE BUSINESS IN ITS DOMICILIARY JURISDICTION OR IN THE PRIMARY
44 CERTIFYING STATE OF THE REINSURER UNDER SUBSECTION G, PARAGRAPH 6 OF THIS
45 SECTION.

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

4 2. WHILE A REINSURER'S ACCREDITATION OR CERTIFICATION IS SUSPENDED,
5 A REINSURANCE CONTRACT ISSUED OR RENEWED AFTER THE EFFECTIVE DATE OF THE
6 SUSPENSION DOES NOT QUALIFY FOR CREDIT EXCEPT TO THE EXTENT THAT THE
7 REINSURER'S OBLIGATIONS UNDER THE CONTRACT ARE SECURED IN ACCORDANCE WITH
8 SECTION 20-3603. IF A REINSURER'S ACCREDITATION OR CERTIFICATION IS
9 REVOKED, A CREDIT FOR REINSURANCE MAY NOT BE GRANTED AFTER THE EFFECTIVE
10 DATE OF THE REVOCATION EXCEPT TO THE EXTENT THAT THE REINSURER'S
11 OBLIGATIONS UNDER THE CONTRACT ARE SECURED IN ACCORDANCE WITH SUBSECTION
12 G, PARAGRAPH 5 OF THIS SECTION OR SECTION 20-3603.

13 Q. A CEDING INSURER SHALL TAKE STEPS TO:

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

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

32 R. FOR THE PURPOSES OF THIS SECTION, "COVERED AGREEMENT" MEANS AN
33 AGREEMENT THAT IS ENTERED INTO PURSUANT TO THE DODD-FRANK WALL STREET
34 REFORM AND CONSUMER PROTECTION ACT (31 UNITED STATES CODE SECTIONS 313 AND
35 314), THAT IS CURRENTLY IN EFFECT OR IN A PERIOD OF PROVISIONAL
36 APPLICATION AND THAT ADDRESSES THE ELIMINATION, UNDER SPECIFIED
37 CONDITIONS, OF COLLATERAL REQUIREMENTS AS A CONDITION FOR ENTERING INTO
38 ANY REINSURANCE AGREEMENT WITH A CEDING INSURER DOMICILED IN THIS STATE OR
39 FOR ALLOWING THE CEDING INSURER TO RECOGNIZE CREDIT FOR REINSURANCE.

40 20-3603. Asset or reduction from liability for reinsurance
41 ceded by a domestic insurer to an assuming insurer

42 A. AN ASSET OR A REDUCTION FROM LIABILITY FOR THE REINSURANCE CEDED
43 BY A DOMESTIC INSURER TO AN ASSUMING INSURER THAT DOES NOT MEET THE
44 REQUIREMENTS OF SECTION 20-3602 SHALL BE ALLOWED IN AN AMOUNT NOT
45 EXCEEDING THE LIABILITIES CARRIED BY THE CEDING INSURER. THE DIRECTOR MAY

1 ADOPT BY RULE PURSUANT TO SECTION 20-3604, SUBSECTION B SPECIFIC
2 ADDITIONAL REQUIREMENTS RELATING TO OR PRESCRIBING ANY OR ALL OF THE
3 FOLLOWING:

- 4 1. THE VALUATION OF ASSETS OR RESERVE CREDITS.
- 5 2. THE AMOUNT AND FORMS OF SECURITY SUPPORTING REINSURANCE
- 6 ARRANGEMENTS DESCRIBED IN SUBSECTION B OF THIS SECTION.
- 7 3. THE CIRCUMSTANCES PURSUANT TO WHICH CREDIT WILL BE REDUCED OR
- 8 ELIMINATED.

9 B. THE REDUCTION SHALL BE IN THE AMOUNT OF FUNDS HELD BY OR ON
10 BEHALF OF THE CEDING INSURER, INCLUDING FUNDS HELD IN TRUST FOR THE CEDING
11 INSURER, UNDER A REINSURANCE CONTRACT WITH THE ASSUMING INSURER AS
12 SECURITY FOR THE PAYMENT OF OBLIGATIONS THEREUNDER, IF THE SECURITY IS
13 HELD IN THE UNITED STATES SUBJECT TO WITHDRAWAL SOLELY BY, AND UNDER THE
14 EXCLUSIVE CONTROL OF, THE CEDING INSURER OR, IN THE CASE OF A TRUST, HELD
15 IN A QUALIFIED UNITED STATES FINANCIAL INSTITUTION AS DEFINED IN SECTION
16 20-3601, SUBSECTION B. THIS SECURITY MAY BE IN THE FORM OF:

- 17 1. CASH.
- 18 2. SECURITIES LISTED BY THE SECURITIES VALUATION OFFICE OF THE
- 19 NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, INCLUDING THOSE DEEMED
- 20 EXEMPT FROM FILING AS DEFINED BY THE PURPOSES AND PROCEDURES MANUAL OF THE
- 21 SECURITIES VALUATION OFFICE, AND QUALIFYING AS ADMITTED ASSETS.
- 22 3. CLEAN, IRREVOCABLE AND UNCONDITIONAL LETTERS OF CREDIT, ISSUED
- 23 OR CONFIRMED BY A QUALIFIED UNITED STATES FINANCIAL INSTITUTION, AS
- 24 DEFINED IN SECTION 20-3601, SUBSECTION A, EFFECTIVE NOT LATER THAN
- 25 DECEMBER 31 OF THE YEAR FOR WHICH THE FILING IS BEING MADE, AND IN THE
- 26 POSSESSION OF, OR IN TRUST FOR, THE CEDING INSURER ON OR BEFORE THE FILING
- 27 DATE OF ITS ANNUAL STATEMENT. LETTERS OF CREDIT THAT MEET APPLICABLE
- 28 STANDARDS OF ISSUER ACCEPTABILITY AS OF THE DATES OF THEIR ISSUANCE OR
- 29 CONFIRMATION, NOTWITHSTANDING THE ISSUING OR CONFIRMING INSTITUTION'S
- 30 SUBSEQUENT FAILURE TO MEET APPLICABLE STANDARDS OF ISSUER ACCEPTABILITY,
- 31 SHALL CONTINUE TO BE ACCEPTABLE AS SECURITY UNTIL THEIR EXPIRATION,
- 32 EXTENSION, RENEWAL, MODIFICATION OR AMENDMENT, WHICHEVER OCCURS FIRST.
- 33 4. ANY OTHER FORM OF SECURITY ACCEPTABLE TO THE DIRECTOR.

34 ~~20-3604.~~ Rules

35 A. THE DIRECTOR MAY ADOPT RULES PURSUANT TO TITLE 41, CHAPTER 6 TO
36 CARRY OUT THIS ARTICLE.

37 B. THE RULES MAY INCLUDE REGULATION OF REINSURANCE ARRANGEMENTS
38 RELATING TO ANY OF THE FOLLOWING:

- 39 1. LIFE INSURANCE POLICIES WITH GUARANTEED NONLEVEL GROSS PREMIUMS
- 40 OR GUARANTEED NONLEVEL BENEFITS.
- 41 2. UNIVERSAL LIFE INSURANCE POLICIES WITH PROVISIONS RESULTING IN
- 42 THE ABILITY OF A POLICYHOLDER TO KEEP A POLICY IN FORCE OVER A SECONDARY
- 43 GUARANTEE PERIOD.
- 44 3. VARIABLE ANNUITIES WITH GUARANTEED DEATH OR LIVING BENEFITS.
- 45 4. LONG-TERM CARE INSURANCE POLICIES.

1 5. ANY OTHER LIFE AND HEALTH INSURANCE AND ANNUITY PRODUCTS FOR
2 WHICH THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS ADOPTS MODEL
3 REGULATORY REQUIREMENTS WITH RESPECT TO CREDIT FOR REINSURANCE.

4 C. ANY RULE ADOPTED PURSUANT TO SUBSECTION B, PARAGRAPH 1 OR 2 OF
5 THIS SECTION MAY APPLY TO ANY TREATY THAT CONTAINS EITHER OR BOTH:

6 1. POLICIES ISSUED ON OR AFTER JANUARY 1, 2015.

7 2. POLICIES ISSUED BEFORE JANUARY 1, 2015, IF RISK PERTAINING TO
8 SUCH PRE-2015 POLICIES IS CEDED IN CONNECTION WITH THE TREATY, IN WHOLE OR
9 IN PART, ON OR AFTER JANUARY 1, 2015.

10 D. ANY RULE ADOPTED PURSUANT TO SUBSECTION B OF THIS SECTION:

11 1. MAY REQUIRE THE CEDING INSURER, IN CALCULATING THE AMOUNTS OR
12 FORMS OF SECURITY REQUIRED TO BE HELD PURSUANT TO RULES ADOPTED BY THE
13 DEPARTMENT, TO USE THE VALUATION MANUAL ADOPTED BY THE NATIONAL
14 ASSOCIATION OF INSURANCE COMMISSIONERS UNDER SECTION 11B(1) OF THE
15 NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS STANDARD VALUATION LAW,
16 INCLUDING ALL AMENDMENTS ADOPTED BY THE NATIONAL ASSOCIATION OF INSURANCE
17 COMMISSIONERS AND IN EFFECT ON THE DATE AS OF WHICH THE CALCULATION IS
18 MADE, TO THE EXTENT APPLICABLE.

19 2. DOES NOT APPLY TO CESSIONS TO AN ASSUMING INSURER THAT IS
20 LICENSED IN AT LEAST TWENTY-SIX STATES OR THAT IS LICENSED IN AT LEAST TEN
21 STATES AND LICENSED OR ACCREDITED IN A TOTAL OF AT LEAST THIRTY-FIVE
22 STATES AND THAT EITHER:

23 (a) MEETS THE CONDITIONS PRESCRIBED IN SECTION 20-3602, SUBSECTION
24 H IN THIS STATE.

25 (b) IS CERTIFIED IN THIS STATE.

26 (c) MAINTAINS AT LEAST \$250,000,000 IN CAPITAL AND SURPLUS AS
27 DETERMINED IN ACCORDANCE WITH THE ACCOUNTING PRACTICES AND PROCEDURES
28 MANUAL AND AMENDMENTS ADOPTED BY THE NATIONAL ASSOCIATION OF INSURANCE
29 COMMISSIONERS, EXCLUDING THE IMPACT OF ANY ALLOWED OR PRESCRIBED
30 PRACTICES.

31 E. THE AUTHORITY TO ADOPT RULES PURSUANT TO SUBSECTION B OF THIS
32 SECTION DOES NOT LIMIT THE DEPARTMENT'S GENERAL AUTHORITY TO ADOPT RULES
33 PURSUANT TO SUBSECTION A OF THIS SECTION.

34 20-3605. Reinsurance agreements affected

35 THIS ARTICLE APPLIES TO ALL CESSIONS AFTER THE EFFECTIVE DATE OF
36 THIS ARTICLE UNDER REINSURANCE AGREEMENTS THAT HAVE AN INCEPTION,
37 ANNIVERSARY OR RENEWAL DATE NOT LESS THAN SIX MONTHS AFTER THE EFFECTIVE
38 DATE OF THIS ARTICLE.

39 Sec. 10. Purpose, intent and declaration

40 A. The purpose of this act is to protect the interest of insureds,
41 claimants, ceding insurers, assuming insurers and the public generally.

42 B. The legislature intends to ensure adequate regulation of
43 insurers and reinsurers and adequate protection for those to whom the
44 insurers and reinsurers owe obligations. In furtherance of that state
45 interest, the legislature provides a mandate that on the insolvency of a

1 non-United States insurer or reinsurer that provides security to fund its
2 United States obligations in accordance with this act, the assets
3 representing the security shall be maintained in the United States and
4 claims shall be filed with and valued by the state insurance commissioner
5 with regulatory oversight, and the assets shall be distributed, in
6 accordance with the insurance laws of the state in which the trust is
7 domiciled that are applicable to the liquidation of domestic United States
8 insurance companies.
9 C. The legislature declares that the matters contained in this act
10 are fundamental to the business of insurance in accordance with 15 United
11 States code sections 1011 and 1012.

APPROVED BY THE GOVERNOR MAY 11, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 11, 2021.