

SENATE BILL 777

C4

3lr2273
CF HB 1166

By: **Senator Pugh**

Introduced and read first time: February 1, 2013

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 20, 2013

CHAPTER _____

1 AN ACT concerning

2 **Insurance – Ceding Insurers and Reinsurance**

3 FOR the purpose of requiring that a domestic ceding insurer be allowed credit for
4 reinsurance in certain manners under certain circumstances; providing for
5 certain credit for reinsurance to be allowed under certain circumstances
6 depending on the licensure or authorization status and accreditation status of
7 the assuming insurer; establishing certain requirements and procedures for an
8 assuming reinsurer to be accredited by the Maryland Insurance Commissioner;
9 providing that an assuming reinsurer is deemed to be qualified under certain
10 circumstances; requiring an assuming reinsurer to report certain information
11 each year to the Commissioner for certain purposes and to submit to
12 examination in a certain manner; prohibiting credit for reinsurance to be
13 granted unless a certain trust has been approved by a certain official;
14 establishing certain requirements for certain trusts; providing for the duration
15 of a certain trust; requiring the trustee of a certain trust to report and certify
16 certain information to the Commissioner; establishing certain requirements for
17 certain trusts used by certain insurers; providing for the certification of certain
18 insurers as reinsurers in this State in accordance with certain requirements
19 and procedures; requiring the Commissioner to maintain a certain list of
20 qualified jurisdictions in which an assuming insurer may be domiciled and
21 considered for certification; providing certain criteria for the Commissioner to
22 consider in recognizing certain qualified jurisdictions; requiring the
23 Commissioner to consider a certain list of jurisdictions published through a
24 certain association for certain purposes; requiring the Commissioner to assign
25 certain ratings to certain certified reinsurers in a certain manner and to publish

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 a list of the reinsurers and their ratings; authorizing the Commissioner to ~~defer~~
 2 ~~to use information on~~ the certification and rating assigned by certain
 3 jurisdictions under certain circumstances for certain purposes; providing for the
 4 maintenance of certification in an inactive status under certain circumstances;
 5 requiring a certified reinsurer to secure certain obligations in certain manners
 6 and forms and at certain levels; requiring the Commissioner to reduce certain
 7 allowable credit under certain circumstances; authorizing the Commissioner to
 8 suspend or revoke the accreditation or certification of a reinsurer in a certain
 9 manner under certain circumstances; limiting the qualification for credit of
 10 certain reinsurance contracts under certain circumstances; prohibiting certain
 11 credit if the assuming insurer is not licensed, accredited, or certified except
 12 under certain circumstances and in a certain manner; providing for the
 13 construction of a certain provision of this Act; providing for certain assets or
 14 reductions from liability for certain reinsurance in a certain manner under
 15 certain circumstances; requiring certain security to be in certain forms and held
 16 in certain places and certain institutions; requiring a ceding insurer to take
 17 certain steps to manage certain reinsurance recoverables and to notify the
 18 Commissioner in certain manners; requiring a ceding insurer to diversify its
 19 ~~portfolio~~ reinsurance program and notify the Commissioner in certain manners;
 20 authorizing the Commissioner to adopt certain regulations; repealing certain
 21 obsolete provisions; defining certain terms; providing that certain laws of the
 22 State inconsistent with this Act are superseded to the extent of the
 23 inconsistency; providing that credit for reinsurance ceded to a reinsurer under
 24 this Act may be allowed only for certain contracts entered into or renewed on or
 25 after a certain date; providing that existing obligations or contract rights may
 26 not be impaired by this Act; and generally relating to insurance and
 27 reinsurance.

28 BY repealing and reenacting, with amendments,
 29 Article – Insurance
 30 Section 5–901 through 5–904
 31 Annotated Code of Maryland
 32 (2011 Replacement Volume and 2012 Supplement)

33 ~~BY repealing and reenacting, without amendments,~~
 34 ~~Article – Insurance~~
 35 ~~Section 5–902~~
 36 ~~Annotated Code of Maryland~~
 37 ~~(2011 Replacement Volume and 2012 Supplement)~~

38 BY adding to
 39 Article – Insurance
 40 Section ~~5–902.1 and 5–903~~ and 5–906 through 5–914 5–916
 41 Annotated Code of Maryland
 42 (2011 Replacement Volume and 2012 Supplement)

43 BY repealing

1 Article – Insurance
 2 Section ~~5-903, 5-904, and 5-905~~
 3 Annotated Code of Maryland
 4 (2011 Replacement Volume and 2012 Supplement

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article – Insurance**

8 5-901.

9 (a) In this subtitle the following words have the meanings indicated.

10 (b) “Ceding insurer” means an insurer that procures insurance for itself from
 11 another insurer for all or part of an insurance risk.

12 **(C) “PRIMARY CERTIFYING STATE” MEANS A STATE OTHER THAN**
 13 **MARYLAND:**

14 **(1) IN WHICH THE INSURANCE REGULATORY AGENCY OR ITS**
 15 **EQUIVALENT HAS DESIGNATED AND ASSIGNED A RATING TO AN ASSUMING**
 16 **INSURER AS A CERTIFIED REINSURER; AND**

17 **(2) THE DESIGNATION OR RATING FROM WHICH THE**
 18 **COMMISSIONER HAS USED TO DESIGNATE OR ASSIGN A RATING TO THE**
 19 **ASSUMING INSURER IN THIS STATE UNDER § 5-910(B) OF THIS SUBTITLE.**

20 **(D) “QUALIFIED JURISDICTION” MEANS A JURISDICTION THAT THE**
 21 **COMMISSIONER DETERMINES MEETS THE REQUIREMENTS OF § 5-909 OF THIS**
 22 **SUBTITLE.**

23 ~~(E)~~ **(E) “QUALIFIED UNITED STATES FINANCIAL INSTITUTION”**
 24 **MEANS:**

25 **(1) FOR PURPOSES OF ISSUANCE OR CONFIRMATION OF A LETTER**
 26 **OF CREDIT UNDER ~~§ 5-912(C)(3)~~ § 5-914(C)(3) OF THIS SUBTITLE, AN**
 27 **INSTITUTION THAT:**

28 **(i) IS ORGANIZED OR, IN THE CASE OF A UNITED STATES**
 29 **OFFICE OF A FOREIGN BANKING ORGANIZATION, LICENSED UNDER THE LAWS**
 30 **OF THE UNITED STATES OR ANY STATE;**

1 (II) IS REGULATED, SUPERVISED, AND EXAMINED BY
 2 FEDERAL OR STATE AUTHORITIES HAVING REGULATORY AUTHORITY OVER
 3 BANKS AND TRUST COMPANIES; AND

4 (III) HAS BEEN DETERMINED BY EITHER THE
 5 COMMISSIONER OR THE SECURITIES VALUATION OFFICE OF THE NATIONAL
 6 ASSOCIATION OF INSURANCE COMMISSIONERS TO MEET THE STANDARDS OF
 7 FINANCIAL CONDITION AND STANDING THAT ARE CONSIDERED NECESSARY AND
 8 APPROPRIATE TO REGULATE THE QUALITY OF FINANCIAL INSTITUTIONS WHOSE
 9 LETTERS OF CREDIT WILL BE ACCEPTABLE TO THE COMMISSIONER; OR

10 (2) FOR PURPOSES OF ELIGIBILITY TO ACT AS A FIDUCIARY OF A
 11 TRUST UNDER THIS SUBTITLE, AN INSTITUTION THAT:

12 (I) IS ORGANIZED OR, IN THE CASE OF A UNITED STATES
 13 BRANCH OR AGENCY OFFICE OF A FOREIGN BANKING ORGANIZATION, LICENSED
 14 UNDER THE LAWS OF THE UNITED STATES OR ANY STATE AND HAS BEEN
 15 GRANTED AUTHORITY TO OPERATE WITH FIDUCIARY POWERS; AND

16 (II) IS REGULATED, SUPERVISED, AND EXAMINED BY
 17 FEDERAL OR STATE AUTHORITIES HAVING REGULATORY AUTHORITY OVER
 18 BANKS AND TRUST COMPANIES.

19 [(c)] ~~(D)~~ (F) "Reinsurer" means an insurer from which a ceding insurer procures
 20 insurance for itself for all or part of an insurance risk.

21 (G) "TRUSTEED SURPLUS" MEANS FUNDS HELD IN A TRUST ACCOUNT IN
 22 EXCESS OF THE REINSURER'S LIABILITIES ATTRIBUTABLE TO REINSURANCE
 23 CEDED TO THE REINSURER BY UNITED STATES CEDING INSURERS IN
 24 ACCORDANCE WITH THIS SUBTITLE.

25 5-902.

26 (A) This subtitle does not apply to wet marine and transportation insurance.

27 (B) ALL LAWS OR PARTS OF LAWS OF THE STATE THAT ARE
 28 INCONSISTENT WITH THIS SUBTITLE ARE SUPERSEDED TO THE EXTENT OF THE
 29 INCONSISTENCY.

30 ~~5-902.1~~ 5-903.

31 CREDIT FOR REINSURANCE SHALL BE ALLOWED A DOMESTIC CEDING
 32 INSURER AS EITHER AN ASSET OR A REDUCTION FROM LIABILITY ON ACCOUNT

1 OF REINSURANCE CEDED IF THE REINSURER MEETS THE REQUIREMENTS OF
2 THIS SUBTITLE.

3 ~~§ 5-903.~~ § 5-904.

4 (a) Except as provided in §§ 3-124 and 3-125 of this article for bulk
5 reinsurance, an insurer may reinsure all or part of a particular risk.

6 ~~(b) An insurer may accept reinsurance only of those risks, and retain risk on~~
7 ~~reinsurance only within those limits, as the insurer is otherwise authorized to insure.]~~

8 ~~§ 5-903.~~

9 ~~(A)~~ (B) (1) CREDIT SHALL BE ALLOWED UNDER SUBSECTION ~~(B)~~,
10 ~~(C)~~, ~~(D)~~, OR ~~(D)~~ (E) OF THIS SECTION WITH RESPECT TO CESSIONS OF THOSE
11 KINDS OR CLASSES OF BUSINESS THAT THE ASSUMING INSURER IS LICENSED OR
12 OTHERWISE ALLOWED TO WRITE OR ASSUME IN ITS STATE OF DOMICILE OR, IN
13 THE CASE OF A UNITED STATES BRANCH OF AN ALIEN ASSUMING INSURER, IN
14 THE STATE THROUGH WHICH IT IS ENTERED AND LICENSED TO TRANSACT
15 INSURANCE OR REINSURANCE.

16 (2) CREDIT SHALL BE ALLOWED UNDER SUBSECTION ~~(D)~~ OR (E)
17 OR (F) OF THIS SECTION ONLY IF THE APPLICABLE REQUIREMENTS OF ~~§ 5-911~~ §
18 5-913 OF THIS SUBTITLE HAVE BEEN SATISFIED.

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

22 ~~(C)~~ (D) CREDIT SHALL BE ALLOWED WHEN THE REINSURANCE IS
23 CEDED TO AN ASSUMING INSURER THAT IS ACCREDITED BY THE COMMISSIONER
24 AS A REINSURER IN THIS STATE IN ACCORDANCE WITH ~~§ 5-904~~ § 5-906 OF THIS
25 SUBTITLE.

26 ~~(D)~~ (E) SUBJECT TO THE REQUIREMENTS OF ~~§ 5-911~~ § 5-913 OF THIS
27 SUBTITLE, CREDIT SHALL BE ALLOWED WHEN THE REINSURANCE IS CEDED TO
28 AN ASSUMING INSURER THAT MAINTAINS A TRUST FUND MEETING THE
29 REQUIREMENTS OF ~~§ 5-905~~ § 5-907 OF THIS SUBTITLE IN A QUALIFIED UNITED
30 STATES FINANCIAL INSTITUTION FOR THE PAYMENT OF THE VALID CLAIMS OF
31 ITS UNITED STATES CEDING INSURERS AND THEIR ASSIGNS AND SUCCESSORS
32 IN INTEREST.

33 ~~(E)~~ (F) CREDIT SHALL BE ALLOWED WHEN THE REINSURANCE IS
34 CEDED TO AN ASSUMING INSURER THAT HAS BEEN CERTIFIED BY THE

1 COMMISSIONER AS A REINSURER IN THIS STATE IN ACCORDANCE WITH §§
 2 5-908 AND 5-909 OF THIS SUBTITLE AND SECURES ITS OBLIGATIONS IN
 3 ACCORDANCE WITH THE REQUIREMENTS OF ~~§ 5-909~~ § 5-911 OF THIS SUBTITLE.

4 ~~(F)~~ (G) CREDIT SHALL BE ALLOWED WHEN THE REINSURANCE IS
 5 CEDED TO AN ASSUMING INSURER NOT MEETING THE REQUIREMENTS OF
 6 SUBSECTION ~~(B)~~, (C), (D), (E), OR ~~(E)~~ (F) OF THIS SECTION, BUT ONLY AS TO THE
 7 INSURANCE OF RISKS LOCATED IN JURISDICTIONS WHERE THE REINSURANCE IS
 8 REQUIRED BY THE APPLICABLE LAW OR REGULATION OF THAT JURISDICTION.

9 ~~§ 5-904.~~ 5-905.

10 (a) (1) Credit may not be allowed, as an asset or deduction from liability,
 11 to a ceding insurer for reinsurance unless:

12 ~~(i) the reinsurer is authorized to transact insurance business in~~
 13 ~~the State or is a solvent insurer approved or accepted by the Commissioner for the~~
 14 ~~purpose of reinsurance; and~~

15 ~~(ii)~~ (ii) the reinsurance contract provides, in substance, that in the
 16 event of the insolvency of the ceding insurer, the reinsurance shall be payable under
 17 the terms of a contract reinsured by the reinsurer on the basis of reported claims
 18 allowed by the court in a liquidation proceeding, without diminution because of the
 19 insolvency of the ceding insurer.

20 (2) Payments made by a reinsurer under paragraph (1)(ii) of this
 21 subsection shall be made directly to the ceding insurer or its domiciliary receiver
 22 unless:

23 (i) the reinsurance contract or other written agreement
 24 specifically provides another payee of the reinsurance in the event of the insolvency of
 25 the ceding insurer; or

26 (ii) subject to any contractual or statutory requirement of
 27 consent by the policyholder, the reinsurer has assumed the policy obligations of the
 28 ceding insurer as direct obligations of the reinsurer to the payees under the policies
 29 and in substitution for the ceding insurer's obligations to the payees.

30 (3) (i) Notwithstanding paragraph (2) of this subsection, if a life
 31 and health insurance guaranty association has elected to succeed to the rights and
 32 obligations of an insolvent insurer under a reinsurance contract, the reinsurer's
 33 liability to pay covered reinsured claims shall continue under the reinsurance
 34 contract, subject to the payment of premiums to the reinsurer for the reinsurance
 35 coverage.

1 (ii) Payment for a covered reinsured claim under subparagraph
2 (i) of this paragraph shall be made by the reinsurer only at the direction of the life and
3 health insurance guaranty association or its designated successor.

4 (iii) Payment for a covered reinsured claim made by the
5 reinsurer at the direction of the life and health insurance guaranty association or its
6 designated successor discharges the reinsurer's liability to any other person for
7 payment of the covered reinsured claim.

8 (b) (1) A reinsurance ~~agreement~~ **CONTRACT** may provide that the
9 domiciliary receiver of an insolvent ceding insurer shall give written notice to the
10 reinsurer of the pendency of a claim made against the insolvent ceding insurer under
11 the contract reinsured within a reasonable time after the claim is filed in the
12 liquidation proceeding.

13 (2) During the pendency of the claim, the reinsurer, at its own
14 expense, may investigate the claim and interpose, in the liquidation proceeding, any
15 defense that it determines is available to the insolvent ceding insurer or its receiver.

16 (3) (i) The reinsurer may file a claim against the insolvent ceding
17 insurer for any expense incurred by the reinsurer under paragraph (2) of this
18 subsection.

19 (ii) The claim may not exceed an amount equal to the
20 proportionate share of the benefit accruing to the insolvent ceding insurer solely as a
21 result of the defense undertaken by the reinsurer.

22 (iii) If two or more reinsurers are involved in a claim and a
23 majority in interest elect to interpose a defense to the claim, the expense shall be
24 apportioned in accordance with the terms of the reinsurance ~~agreement~~ **CONTRACT** as
25 though the expense had been incurred by the insolvent ceding insurer.

26 (c) On request of the Commissioner, a ceding insurer shall inform the
27 Commissioner promptly in writing of the cancellation or any other material change of
28 any of its reinsurance ~~treaties~~ **CONTRACTS** or arrangements.†

29 ~~5-904.~~ 5-906.

30 (A) **IN ORDER FOR AN ASSUMING REINSURER TO BE ELIGIBLE FOR**
31 **ACCREDITATION BY THE COMMISSIONER, THE REINSURER SHALL:**

32 (1) **FILE WITH THE COMMISSIONER EVIDENCE OF ITS**
33 **SUBMISSION TO THIS STATE'S JURISDICTION;**

34 (2) **SUBMIT TO ~~THIS STATE'S~~ THE COMMISSIONER'S AUTHORITY**
35 **TO EXAMINE ITS BOOKS AND RECORDS;**

1 **(3) BE LICENSED TO TRANSACT INSURANCE OR REINSURANCE IN**
 2 **AT LEAST ONE STATE OR, IN THE CASE OF A UNITED STATES BRANCH OF AN**
 3 **ALIEN ASSUMING INSURER, BE ENTERED THROUGH AND LICENSED TO**
 4 **TRANSACT INSURANCE OR REINSURANCE IN AT LEAST ONE STATE;**

5 **(4) FILE EACH YEAR WITH THE COMMISSIONER A COPY OF ITS**
 6 **ANNUAL STATEMENT FILED WITH THE INSURANCE DEPARTMENT OF ITS STATE**
 7 **OF DOMICILE AND A COPY OF ITS MOST RECENT AUDITED FINANCIAL**
 8 **STATEMENT; AND**

9 **(5) DEMONSTRATE TO THE SATISFACTION OF THE**
 10 **COMMISSIONER THAT THE REINSURER HAS ADEQUATE FINANCIAL CAPACITY TO**
 11 **MEET ITS REINSURANCE OBLIGATIONS AND IS OTHERWISE QUALIFIED TO**
 12 **ASSUME REINSURANCE FROM DOMESTIC INSURERS.**

13 **(B) AN ASSUMING INSURER IS DEEMED TO MEET THE REQUIREMENT OF**
 14 **SUBSECTION (A)(5) OF THIS SECTION AS OF THE TIME OF ITS APPLICATION IF:**

15 **(1) THE ASSUMING INSURER MAINTAINS A SURPLUS AS REGARDS**
 16 **POLICYHOLDERS IN AN AMOUNT NOT LESS THAN \$20,000,000; AND**

17 **(2) THE COMMISSIONER HAS NOT DENIED THE ASSUMING**
 18 **INSURER'S ACCREDITATION WITHIN 90 DAYS AFTER SUBMISSION OF ITS**
 19 **APPLICATION.**

20 [5-905.

21 Each unauthorized insurer that applies for approval or renewal of approval as
 22 an accepted reinsurer shall file annually with the Commissioner:

23 (1) an annual statement on convention form;

24 (2) a certificate evidencing a deposit; and

25 (3) a certificate of compliance.]

26 ~~5-905.~~ 5-907.

27 **(A) TO ENABLE THE COMMISSIONER TO DETERMINE THE SUFFICIENCY**
 28 **OF THE TRUST FUND PROVIDED FOR IN ~~§ 5-903(D)~~ § 5-904(E) OF THIS**
 29 **SUBTITLE, THE ASSUMING INSURER SHALL REPORT EACH YEAR TO THE**
 30 **COMMISSIONER INFORMATION SUBSTANTIALLY THE SAME AS THAT REQUIRED**
 31 **TO BE REPORTED ON THE NATIONAL ASSOCIATION OF INSURANCE**

1 COMMISSIONERS ANNUAL STATEMENT FORM BY ~~LICENSED~~ AUTHORIZED
2 INSURERS.

3 (B) THE ASSUMING INSURER SHALL SUBMIT TO EXAMINATION OF ITS
4 BOOKS AND RECORDS BY THE COMMISSIONER AND BEAR THE EXPENSE OF
5 EXAMINATION.

6 (C) CREDIT FOR REINSURANCE MAY NOT BE GRANTED UNDER THIS
7 SECTION UNLESS THE FORM OF THE TRUST AND ANY AMENDMENTS TO THE
8 TRUST HAVE BEEN APPROVED BY:

9 (1) ~~THE COMMISSIONER~~ INSURANCE REGULATORY AGENCY OF
10 THE STATE WHERE THE TRUST IS DOMICILED; OR

11 (2) ~~THE COMMISSIONER~~ INSURANCE REGULATORY AGENCY OF
12 ANOTHER STATE WHO, UNDER THE TERMS OF THE TRUST INSTRUMENT, HAS
13 ACCEPTED PRINCIPAL REGULATORY OVERSIGHT OF THE TRUST.

14 (D) THE FORM OF THE TRUST AND ANY TRUST AMENDMENTS SHALL BE
15 FILED WITH THE ~~COMMISSIONER~~ INSURANCE REGULATORY AGENCY OF EACH
16 STATE IN WHICH THE CEDING INSURER BENEFICIARIES OF THE TRUST ARE
17 DOMICILED.

18 (E) THE TRUST INSTRUMENT SHALL PROVIDE THAT CONTESTED
19 CLAIMS SHALL BE VALID AND ENFORCEABLE ON THE FINAL ORDER OF ANY
20 COURT OF COMPETENT JURISDICTION IN THE UNITED STATES.

21 (F) THE TRUST SHALL VEST LEGAL TITLE TO ITS ASSETS IN ITS
22 TRUSTEES FOR THE BENEFIT OF THE ASSUMING INSURER'S UNITED STATES
23 CEDING INSURERS AND THEIR ASSIGNS AND SUCCESSORS IN INTEREST.

24 (G) THE TRUST AND THE ASSUMING INSURER SHALL BE SUBJECT TO
25 EXAMINATION AS DETERMINED BY THE COMMISSIONER ~~DETERMINES~~.

26 (H) THE TRUST SHALL REMAIN IN EFFECT FOR AS LONG AS THE
27 ASSUMING INSURER HAS OUTSTANDING OBLIGATIONS DUE UNDER THE
28 REINSURANCE AGREEMENTS CONTRACTS SUBJECT TO THE TRUST.

29 (I) NOT LATER THAN FEBRUARY 28 OF EACH YEAR, THE TRUSTEE OF
30 THE TRUST SHALL:

31 (1) REPORT TO THE COMMISSIONER IN WRITING THE BALANCE
32 OF THE TRUST AND LIST THE TRUST'S INVESTMENTS AT THE PRECEDING
33 YEAR-END; AND

1 (2) CERTIFY THE DATE OF TERMINATION OF THE TRUST, IF SO
2 PLANNED, OR CERTIFY THAT THE TRUST WILL NOT EXPIRE BEFORE THE
3 FOLLOWING DECEMBER 31.

4 (J) (1) ~~IN THE CASE OF~~ THIS SUBSECTION APPLIES TO CEDING TO A
5 SINGLE ASSUMING INSURER~~s~~.

6 ~~(H) (2)~~ ~~THE~~ THE TRUST FUND SHALL CONSIST OF FUNDS
7 IN TRUST IN AN AMOUNT NOT LESS THAN THE ASSUMING INSURER'S LIABILITIES
8 ATTRIBUTABLE TO REINSURANCE CEDED BY UNITED STATES CEDING
9 INSURERS~~; AND~~.

10 ~~(H) (3)~~ ~~EXCEPT~~ EXCEPT AS PROVIDED IN PARAGRAPH ~~(2)~~
11 (4) OF THIS SUBSECTION, THE ASSUMING INSURER SHALL MAINTAIN A
12 TRUSTEED SURPLUS OF NOT LESS THAN \$20,000,000.

13 ~~(2) (4) (I)~~ SUBJECT TO SUBPARAGRAPHS (II) AND (III) OF THIS
14 PARAGRAPH, AT ANY TIME AFTER THE ASSUMING INSURER HAS PERMANENTLY
15 DISCONTINUED UNDERWRITING NEW BUSINESS SECURED BY THE TRUST FOR AT
16 LEAST 3 FULL YEARS, THE ~~COMMISSIONER~~ INSURANCE REGULATORY AGENCY
17 WITH PRINCIPAL REGULATORY OVERSIGHT OF THE TRUST MAY AUTHORIZE A
18 REDUCTION IN THE REQUIRED TRUSTEED SURPLUS, BUT ONLY AFTER A
19 FINDING, BASED ON AN ASSESSMENT OF THE RISK, THAT THE NEW REQUIRED
20 SURPLUS LEVEL IS ADEQUATE FOR THE PROTECTION OF UNITED STATES
21 CEDING INSURERS, POLICYHOLDERS, AND CLAIMANTS IN LIGHT OF
22 REASONABLY FORESEEABLE ADVERSE LOSS DEVELOPMENT.

23 (II) THE RISK ASSESSMENT UNDER SUBPARAGRAPH (I) OF
24 THIS PARAGRAPH:

25 1. MAY INVOLVE AN ACTUARIAL REVIEW, INCLUDING
26 AN INDEPENDENT ANALYSIS OF RESERVES AND CASH FLOWS; AND

27 2. SHALL CONSIDER ALL MATERIAL RISK FACTORS,
28 INCLUDING, WHEN APPLICABLE, THE LINES OF BUSINESS INVOLVED, THE
29 STABILITY OF THE INCURRED LOSS ESTIMATES, AND THE EFFECT OF THE
30 SURPLUS REQUIREMENTS ON THE ASSUMING INSURER'S LIQUIDITY OR
31 SOLVENCY.

32 (III) THE MINIMUM REQUIRED TRUSTEED SURPLUS UNDER
33 SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY NOT BE REDUCED TO AN AMOUNT
34 LESS THAN 30% OF THE ASSUMING INSURER'S LIABILITIES ATTRIBUTABLE TO

1 REINSURANCE CEDED BY UNITED STATES CEDING INSURERS COVERED BY THE
2 TRUST.

3 ~~(3)~~ ~~(H)~~ ~~(K)~~ ~~(1)~~ ~~IN THE CASE OF~~ THIS SUBSECTION APPLIES TO
4 CEDING TO A GROUP INCLUDING THAT INCLUDES INCORPORATED AND
5 INDIVIDUAL UNINCORPORATED UNDERWRITERS.

6 ~~1.~~ ~~(2)~~ ~~FOR~~ FOR REINSURANCE CEDED UNDER
7 REINSURANCE ~~AGREEMENTS~~ CONTRACTS WITH AN INCEPTION, AMENDMENT,
8 OR RENEWAL DATE ON OR AFTER JANUARY 1, 1993, THE TRUST SHALL CONSIST
9 OF A TRUSTEED ACCOUNT IN AN AMOUNT NOT LESS THAN THE RESPECTIVE
10 UNDERWRITERS' SEVERAL LIABILITIES ATTRIBUTABLE TO BUSINESS CEDED BY
11 UNITED STATES DOMICILED CEDING INSURERS TO ANY UNDERWRITER OF THE
12 GROUP.

13 ~~2.~~ ~~(3)~~ ~~FOR~~ FOR REINSURANCE CEDED UNDER
14 REINSURANCE ~~AGREEMENTS~~ CONTRACTS WITH AN INCEPTION DATE ON OR
15 BEFORE DECEMBER 31, 1992, AND NOT AMENDED OR RENEWED AFTER THAT
16 DATE, NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SECTION, THE
17 TRUST SHALL CONSIST OF A TRUSTEED ACCOUNT IN AN AMOUNT NOT LESS
18 THAN THE RESPECTIVE UNDERWRITERS' SEVERAL INSURANCE AND
19 REINSURANCE LIABILITIES ATTRIBUTABLE TO BUSINESS WRITTEN IN THE
20 UNITED STATES; ~~AND~~.

21 ~~3.~~ ~~(4)~~ IN ADDITION TO THESE TRUSTS, THE GROUP
22 SHALL MAINTAIN IN TRUST A TRUSTEED SURPLUS OF WHICH \$100,000,000
23 SHALL BE HELD JOINTLY FOR THE BENEFIT OF THE UNITED STATES DOMICILED
24 CEDING INSURERS OF ANY MEMBER OF THE GROUP FOR ALL YEARS OF
25 ACCOUNT.

26 ~~(H)~~ ~~(5)~~ THE INCORPORATED MEMBERS OF THE GROUP:

27 ~~1.~~ ~~(1)~~ MAY NOT BE ENGAGED IN ANY BUSINESS OTHER
28 THAN UNDERWRITING AS A MEMBER OF THE GROUP; AND

29 ~~2.~~ ~~(II)~~ SHALL BE SUBJECT TO THE SAME LEVEL OF
30 REGULATION AND SOLVENCY CONTROL BY THE GROUP'S DOMICILIARY
31 REGULATOR AS ARE THE UNINCORPORATED MEMBERS.

32 ~~(H)~~ ~~(6)~~ WITHIN 90 DAYS AFTER ITS FINANCIAL
33 STATEMENTS ARE DUE TO BE FILED WITH THE GROUP'S DOMICILIARY
34 REGULATOR, THE GROUP SHALL PROVIDE TO THE COMMISSIONER:

1 ~~1~~ (I) AN ANNUAL CERTIFICATION BY THE GROUP'S
 2 DOMICILIARY REGULATOR OF THE SOLVENCY OF EACH UNDERWRITER MEMBER;
 3 OR

4 ~~2~~ (II) IF A CERTIFICATION IS UNAVAILABLE, FINANCIAL
 5 STATEMENTS, PREPARED BY INDEPENDENT PUBLIC ACCOUNTANTS, OF EACH
 6 UNDERWRITER MEMBER OF THE GROUP.

7 ~~(4) IN THE CASE OF A GROUP OF INCORPORATED UNDERWRITERS~~
 8 ~~UNDER COMMON ADMINISTRATION, THE GROUP SHALL:~~

9 ~~(I) HAVE CONTINUOUSLY TRANSACTED AN INSURANCE~~
 10 ~~BUSINESS OUTSIDE THE UNITED STATES FOR AT LEAST 3 YEARS IMMEDIATELY~~
 11 ~~PRIOR TO MAKING APPLICATION FOR ACCREDITATION;~~

12 ~~(II) MAINTAIN AGGREGATE POLICYHOLDERS' SURPLUS OF~~
 13 ~~AT LEAST \$10,000,000;~~

14 ~~(III) MAINTAIN A TRUST FUND IN AN AMOUNT NOT LESS~~
 15 ~~THAN THE GROUP'S SEVERAL LIABILITIES ATTRIBUTABLE TO BUSINESS CEDED~~
 16 ~~BY UNITED STATES DOMICILED CEDING INSURERS TO ANY MEMBER OF THE~~
 17 ~~GROUP UNDER REINSURANCE CONTRACTS ISSUED IN THE NAME OF THE GROUP;~~

18 ~~(IV) MAINTAIN A JOINT TRUSTEED SURPLUS OF WHICH~~
 19 ~~\$100,000,000 SHALL BE HELD JOINTLY FOR THE BENEFIT OF UNITED STATES~~
 20 ~~DOMICILED CEDING INSURERS OF ANY MEMBER OF THE GROUP AS ADDITIONAL~~
 21 ~~SECURITY FOR THESE LIABILITIES; AND~~

22 ~~(V) WITHIN 90 DAYS AFTER ITS FINANCIAL STATEMENTS~~
 23 ~~ARE DUE TO BE FILED WITH THE GROUP'S DOMICILIARY REGULATOR, MAKE~~
 24 ~~AVAILABLE TO THE COMMISSIONER AN ANNUAL CERTIFICATION OF EACH~~
 25 ~~UNDERWRITER MEMBER'S SOLVENCY BY THE MEMBER'S DOMICILIARY~~
 26 ~~REGULATOR AND FINANCIAL STATEMENTS OF EACH UNDERWRITER MEMBER OF~~
 27 ~~THE GROUP PREPARED BY ITS INDEPENDENT PUBLIC ACCOUNTANT.~~

28 ~~5-906, 5-908.~~

29 (A) IN ORDER TO BE ELIGIBLE FOR CERTIFICATION IN ACCORDANCE
 30 WITH ~~§ 5-903(F)~~ § 5-904(F) OF THIS SUBTITLE, THE ASSUMING INSURER SHALL:

31 (1) BE DOMICILED AND LICENSED TO TRANSACT INSURANCE OR
 32 REINSURANCE IN A QUALIFIED JURISDICTION, AS DETERMINED UNDER ~~§ 5-907~~
 33 ~~§ 5-909~~ OF THIS SUBTITLE;

1 (2) MAINTAIN MINIMUM CAPITAL AND SURPLUS, OR ITS
2 EQUIVALENT, IN AN AMOUNT THE COMMISSIONER DETERMINES IN
3 ACCORDANCE WITH REGULATIONS THE COMMISSIONER ADOPTS;

4 (3) MAINTAIN FINANCIAL STRENGTH RATINGS FROM TWO OR
5 MORE RATING AGENCIES THAT THE COMMISSIONER CONSIDERS ACCEPTABLE
6 IN ACCORDANCE WITH REGULATIONS THE COMMISSIONER ADOPTS;

7 (4) AGREE TO SUBMIT TO THE JURISDICTION OF THIS STATE;

8 (5) APPOINT THE COMMISSIONER AS ITS AGENT FOR SERVICE OF
9 PROCESS IN THIS STATE;

10 (6) AGREE TO PROVIDE SECURITY FOR ALL OF THE ASSUMING
11 INSURER'S LIABILITIES ATTRIBUTABLE TO REINSURANCE CEDED BY UNITED
12 STATES CEDING INSURERS IF IT RESISTS ENFORCEMENT OF A FINAL UNITED
13 STATES JUDGMENT;

14 (7) AGREE TO MEET APPLICABLE INFORMATION FILING
15 REQUIREMENTS AS THE COMMISSIONER DETERMINES BOTH FOR THE INITIAL
16 APPLICATION FOR CERTIFICATION AND ON AN ONGOING BASIS; AND

17 (8) SATISFY ANY OTHER REQUIREMENTS FOR CERTIFICATION
18 THAT THE COMMISSIONER CONSIDERS RELEVANT.

19 (B) (1) ~~AN ASSOCIATION~~ A GROUP, INCLUDING INCORPORATED AND
20 INDIVIDUAL UNINCORPORATED UNDERWRITERS, MAY BE A CERTIFIED
21 REINSURER IF THE ~~ASSOCIATION~~ GROUP, INCLUDING INCORPORATED AND
22 INDIVIDUAL UNINCORPORATED UNDERWRITERS, MEETS ALL THE
23 REQUIREMENTS OF THIS ~~SUBSECTION AND SUBSECTION (A)~~ SECTION.

24 (2) ~~THE ASSOCIATION~~ GROUP SHALL SATISFY ITS MINIMUM
25 CAPITAL AND SURPLUS EQUIVALENTS, NET OF LIABILITIES, OF THE
26 ~~ASSOCIATION~~ GROUP AND ITS MEMBERS, WHICH SHALL INCLUDE A JOINT
27 CENTRAL FUND THAT MAY BE APPLIED TO ANY UNSATISFIED OBLIGATION OF
28 THE ~~ASSOCIATION~~ GROUP OR ANY OF ITS MEMBERS, IN AN AMOUNT THAT THE
29 COMMISSIONER DETERMINES WILL PROVIDE ADEQUATE PROTECTION.

30 (3) THE INCORPORATED MEMBERS OF THE ~~ASSOCIATION~~ GROUP
31 MAY NOT BE ENGAGED IN ANY BUSINESS OTHER THAN UNDERWRITING AS A
32 MEMBER OF THE ~~ASSOCIATION~~ GROUP.

33 (4) THE INCORPORATED MEMBERS OF THE ~~ASSOCIATION~~ GROUP
34 SHALL BE SUBJECT TO THE SAME LEVEL OF REGULATION AND SOLVENCY

1 CONTROL BY THE ~~ASSOCIATION'S~~ GROUP'S DOMICILIARY REGULATOR AS ARE
2 THE UNINCORPORATED MEMBERS.

3 (5) WITHIN 90 DAYS AFTER ITS FINANCIAL STATEMENTS ARE DUE
4 TO BE FILED WITH THE ~~ASSOCIATION'S~~ GROUP'S DOMICILIARY REGULATOR, THE
5 ~~ASSOCIATION~~ GROUP SHALL PROVIDE TO THE COMMISSIONER:

6 (I) AN ANNUAL CERTIFICATION BY THE ~~ASSOCIATION'S~~
7 GROUP'S DOMICILIARY REGULATOR OF THE SOLVENCY OF EACH UNDERWRITER
8 MEMBER; OR

9 (II) IF A CERTIFICATION IS UNAVAILABLE, FINANCIAL
10 STATEMENTS, PREPARED BY INDEPENDENT PUBLIC ACCOUNTANTS, OF EACH
11 UNDERWRITER MEMBER OF THE ~~ASSOCIATION~~ GROUP.

12 ~~5-907.~~ 5-909.

13 (A) (1) THE COMMISSIONER SHALL MAINTAIN AND PUBLISH A LIST
14 OF QUALIFIED JURISDICTIONS UNDER WHICH AN ASSUMING INSURER,
15 LICENSED AND DOMICILED IN THAT JURISDICTION, IS ELIGIBLE TO BE
16 CONSIDERED FOR CERTIFICATION BY THE COMMISSIONER AS A CERTIFIED
17 REINSURER.

18 (2) IN ORDER TO DETERMINE WHETHER THE DOMICILIARY
19 JURISDICTION OF A NON-UNITED STATES ASSUMING INSURER IS ELIGIBLE TO
20 BE RECOGNIZED AS A QUALIFIED JURISDICTION, THE COMMISSIONER SHALL:

21 (I) EVALUATE THE APPROPRIATENESS AND
22 EFFECTIVENESS OF THE REINSURANCE SUPERVISORY SYSTEM OF THE
23 JURISDICTION, INITIALLY AND ON AN ONGOING BASIS; AND

24 (II) CONSIDER THE RIGHTS, BENEFITS, AND EXTENT OF
25 RECIPROCAL RECOGNITION AFFORDED BY THE NON-UNITED STATES
26 JURISDICTION TO REINSURERS LICENSED AND DOMICILED IN THE UNITED
27 STATES.

28 (3) A QUALIFIED JURISDICTION SHALL AGREE IN WRITING TO
29 SHARE INFORMATION AND COOPERATE WITH THE COMMISSIONER WITH
30 RESPECT TO ALL CERTIFIED REINSURERS DOMICILED IN THAT JURISDICTION.

31 (4) THE COMMISSIONER MAY NOT RECOGNIZE A JURISDICTION
32 AS A QUALIFIED JURISDICTION ~~A JURISDICTION THAT~~ UNLESS THE
33 COMMISSIONER ~~DETERMINES DOES~~ HAS DETERMINED THAT THE JURISDICTION

1 ~~NOT ADEQUATELY AND PROMPTLY ENFORCE~~ ENFORCES FINAL UNITED STATES
2 JUDGMENTS AND ARBITRATION AWARDS.

3 (5) THE COMMISSIONER MAY CONSIDER OTHER FACTORS IN
4 DETERMINING THE JURISDICTION'S ELIGIBILITY TO BE RECOGNIZED AS A
5 QUALIFIED JURISDICTION.

6 (B) (1) ~~THERE IS A~~ THE COMMISSIONER SHALL CONSIDER THE LIST
7 OF QUALIFIED JURISDICTIONS PUBLISHED THROUGH THE NATIONAL
8 ASSOCIATION OF INSURANCE COMMISSIONERS COMMITTEE PROCESS IN
9 DETERMINING THE QUALIFIED JURISDICTIONS IN THIS STATE.

10 (2) ~~THE~~ IN DETERMINING WHETHER A JURISDICTION IS A
11 QUALIFIED JURISDICTION, THE COMMISSIONER SHALL CONSIDER THE
12 NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS LIST IN
13 DETERMINING QUALIFIED JURISDICTIONS;

14 (I) WHEN THE JURISDICTION HAS BEEN EVALUATED FOR
15 INCLUSION ON THE LIST; AND

16 (II) WHENEVER THE LIST IS AMENDED.

17 (3) IF THE COMMISSIONER APPROVES A JURISDICTION AS
18 QUALIFIED THAT DOES NOT APPEAR ON THE NATIONAL ASSOCIATION OF
19 INSURANCE COMMISSIONERS LIST OF QUALIFIED JURISDICTIONS, THE
20 COMMISSIONER SHALL PROVIDE ~~THOROUGHLY DOCUMENTED JUSTIFICATION~~
21 ~~IN ACCORDANCE WITH CRITERIA TO BE DEVELOPED UNDER~~ INFORMATION
22 RELATED TO THE APPROVAL TO THE NATIONAL ASSOCIATION OF INSURANCE
23 COMMISSIONERS AS PROVIDED IN REGULATIONS THE COMMISSIONER ADOPTS.

24 (4) ~~UNITED STATES JURISDICTIONS~~ THE COMMISSIONER SHALL
25 RECOGNIZE AS A QUALIFIED JURISDICTION IN THIS STATE ANY STATE THAT
26 ~~MEET~~ MEETS THE REQUIREMENT FOR ACCREDITATION UNDER THE NATIONAL
27 ASSOCIATION OF INSURANCE COMMISSIONERS FINANCIAL STANDARDS AND
28 ACCREDITATION PROGRAM ~~SHALL BE RECOGNIZED AS QUALIFIED~~
29 ~~JURISDICTIONS IN THIS STATE.~~

30 (5) IF A CERTIFIED REINSURER'S DOMICILIARY JURISDICTION
31 CEASES TO BE A QUALIFIED JURISDICTION, THE COMMISSIONER MAY
32 INDEFINITELY SUSPEND OR REVOKE THE REINSURER'S CERTIFICATION.

33 ~~5-908.~~ 5-910.

1 (A) (1) THE COMMISSIONER SHALL ASSIGN A RATING TO EACH
 2 CERTIFIED REINSURER BASED ON FACTORS THE COMMISSIONER CONSIDERS
 3 RELEVANT, GIVING DUE CONSIDERATION TO THE FINANCIAL STRENGTH
 4 RATINGS THAT HAVE BEEN ASSIGNED BY RATING AGENCIES ~~THAT THE~~
 5 ~~COMMISSIONER CONSIDERS ACCEPTABLE~~ IN ACCORDANCE WITH REGULATIONS
 6 THE COMMISSIONER ADOPTS.

7 (2) THE COMMISSIONER SHALL PUBLISH A LIST OF ALL
 8 CERTIFIED REINSURERS AND THEIR RATINGS.

9 (B) IF AN APPLICANT FOR CERTIFICATION HAS BEEN CERTIFIED AS A
 10 REINSURER ~~IN A JURISDICTION~~ BY THE INSURANCE REGULATORY AGENCY OF A
 11 STATE ACCREDITED BY THE NATIONAL ASSOCIATION OF INSURANCE
 12 COMMISSIONERS;

13 ~~(1), THE COMMISSIONER MAY DEFER TO THAT JURISDICTION'S~~
 14 ~~CERTIFICATION AND TO THE RATING ASSIGNED BY THAT JURISDICTION; AND~~

15 ~~(2) THE ASSUMING INSURER SHALL BE CONSIDERED TO BE A~~
 16 ~~CERTIFIED REINSURER IN THIS STATE~~ USE INFORMATION PROVIDED BY THAT
 17 INSURANCE REGULATORY AGENCY TO:

18 (1) DESIGNATE THE ASSUMING INSURER AS A CERTIFIED
 19 REINSURER IN THIS STATE;

20 (2) ASSIGN A RATING TO THE ASSUMING INSURER; OR

21 (3) BOTH.

22 (C) (1) A CERTIFIED REINSURER THAT CEASES TO ASSUME NEW
 23 BUSINESS IN THIS STATE MAY REQUEST TO MAINTAIN ITS CERTIFICATION IN
 24 INACTIVE STATUS IN ORDER TO CONTINUE TO QUALIFY FOR A REDUCTION IN
 25 SECURITY FOR ITS IN-FORCE BUSINESS.

26 (2) AN INACTIVE CERTIFIED REINSURER SHALL CONTINUE TO
 27 COMPLY WITH ALL APPLICABLE REQUIREMENTS OF ~~§ 5-909~~ § 5-911 OF THIS
 28 SUBTITLE.

29 (3) THE COMMISSIONER SHALL ASSIGN A RATING THAT TAKES
 30 INTO ACCOUNT, IF RELEVANT, THE REASONS WHY THE REINSURER IS NOT
 31 ASSUMING NEW BUSINESS.

32 ~~5-909.~~ 5-911.

1 (A) A CERTIFIED REINSURER SHALL SECURE OBLIGATIONS ASSUMED
2 FROM UNITED STATES CEDING INSURERS UNDER THIS SUBTITLE AT A LEVEL
3 CONSISTENT WITH ITS RATING, AS SPECIFIED IN REGULATIONS THE
4 COMMISSIONER ADOPTS.

5 (B) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IN ORDER FOR
6 A DOMESTIC CEDING INSURER TO QUALIFY FOR FULL FINANCIAL STATEMENT
7 CREDIT FOR REINSURANCE CEDED TO A CERTIFIED REINSURER, THE CERTIFIED
8 REINSURER SHALL MAINTAIN SECURITY IN A FORM THE COMMISSIONER
9 CONSIDERS ACCEPTABLE AND CONSISTENT WITH ~~THE PROVISIONS OF § 5-912~~
10 § 5-914 OF THIS SUBTITLE, OR IN A MULTIBENEFICIARY TRUST IN ACCORDANCE
11 WITH ~~§ 5-905~~ § 5-907 OF THIS SUBTITLE.

12 (C) (1) IF A CERTIFIED REINSURER MAINTAINS A TRUST TO FULLY
13 SECURE ITS OBLIGATIONS CONSISTENT WITH ~~THE PROVISIONS OF § 5-905~~
14 § 5-907 OF THIS SUBTITLE AND CHOOSES TO SECURE ITS OBLIGATIONS
15 INCURRED AS A CERTIFIED REINSURER IN THE FORM OF A MULTIBENEFICIARY
16 TRUST, THE CERTIFIED REINSURER SHALL MAINTAIN SEPARATE TRUST
17 ACCOUNTS FOR ITS OBLIGATIONS INCURRED UNDER REINSURANCE
18 ~~AGREEMENTS~~ CONTRACTS ISSUED OR RENEWED AS A CERTIFIED REINSURER
19 WITH REDUCED SECURITY AS ALLOWED BY THIS SECTION OR COMPARABLE
20 LAWS OF OTHER UNITED STATES JURISDICTIONS AND FOR ITS OBLIGATIONS
21 SUBJECT TO ~~§ 5-905~~ § 5-907 OF THIS SUBTITLE.

22 (2) AS A CONDITION OF CERTIFICATION UNDER ~~§ 5-906~~ § 5-908
23 OF THIS SUBTITLE, THE CERTIFIED REINSURER SHALL BIND ITSELF, BY THE
24 LANGUAGE OF THE TRUST AND AGREEMENT WITH THE COMMISSIONER WITH
25 PRINCIPAL REGULATORY OVERSIGHT OF EACH TRUST ACCOUNT, TO FUND, ON
26 TERMINATION OF THE TRUST ACCOUNT, OUT OF THE REMAINING SURPLUS OF
27 THE TRUST, ANY DEFICIENCY OF ANY OTHER TRUST ACCOUNT.

28 (D) THE MINIMUM TRUSTEED SURPLUS REQUIREMENTS PROVIDED IN
29 ~~§ 5-905~~ § 5-907 OF THIS SUBTITLE DO NOT APPLY WITH RESPECT TO A
30 MULTIBENEFICIARY TRUST MAINTAINED BY A CERTIFIED REINSURER FOR THE
31 PURPOSE OF SECURING OBLIGATIONS INCURRED UNDER THIS SECTION, EXCEPT
32 THAT THE TRUST SHALL MAINTAIN A MINIMUM TRUSTEED SURPLUS OF
33 **\$10,000,000**.

34 (E) WITH RESPECT TO OBLIGATIONS INCURRED BY A CERTIFIED
35 REINSURER UNDER THIS SECTION, IF THE SECURITY IS INSUFFICIENT, THE
36 COMMISSIONER:

37 (1) SHALL REDUCE THE ALLOWABLE CREDIT BY AN AMOUNT
38 PROPORTIONATE TO THE DEFICIENCY; AND

1 (2) MAY IMPOSE FURTHER REDUCTIONS IN ALLOWABLE CREDIT
2 ON FINDING THAT THERE IS A MATERIAL RISK THAT THE CERTIFIED
3 REINSURER'S OBLIGATIONS WILL NOT BE PAID IN FULL WHEN DUE.

4 (F) (1) FOR PURPOSES OF THIS SECTION, A CERTIFIED REINSURER
5 WHOSE CERTIFICATION THE COMMISSIONER HAS BEEN REVOKED, SUSPENDED,
6 ~~VOLUNTARILY SURRENDERED~~, OR PLACED ON INACTIVE STATUS, OR HAS BEEN
7 VOLUNTARILY SURRENDERED, FOR ANY REASON SHALL BE TREATED AS A
8 CERTIFIED REINSURER REQUIRED TO SECURE ~~100%~~ ALL OF ITS OBLIGATIONS.

9 (2) IF THE COMMISSIONER CONTINUES TO ASSIGN A HIGHER
10 RATING AS ALLOWED BY OTHER PROVISIONS OF THIS SECTION, THE
11 REQUIREMENT OF PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO A
12 CERTIFIED REINSURER IN INACTIVE STATUS OR TO A REINSURER WHOSE
13 CERTIFICATION HAS BEEN SUSPENDED.

14 ~~5-910. 5-912.~~

15 (A) AFTER PROVIDING NOTICE AND AN OPPORTUNITY FOR HEARING TO
16 THE REINSURER, THE COMMISSIONER MAY SUSPEND OR REVOKE A
17 REINSURER'S ACCREDITATION OR CERTIFICATION IF THE REINSURER CEASES
18 TO MEET THE REQUIREMENTS FOR ACCREDITATION OR CERTIFICATION.

19 (B) THE REVOCATION OR SUSPENSION MAY NOT TAKE EFFECT UNTIL
20 AFTER THE COMMISSIONER'S ORDER ON HEARING UNLESS:

21 (1) THE REINSURER WAIVES ITS RIGHT TO A HEARING;

22 (2) THE COMMISSIONER'S ORDER IS BASED ON A REGULATORY
23 ACTION BY THE REINSURER'S DOMICILIARY JURISDICTION OR PRIMARY
24 CERTIFYING STATE ~~TERMINATING~~ SUSPENDING OR REVOKING THE
25 REINSURER'S ELIGIBILITY TO TRANSACT INSURANCE OR REINSURANCE;

26 (3) THE REINSURER VOLUNTARILY SURRENDERS ITS LICENSE OR
27 CERTIFICATION TO TRANSACT INSURANCE OR REINSURANCE BUSINESS IN ITS
28 DOMICILIARY JURISDICTION OR PRIMARY CERTIFYING STATE; OR

29 (4) (I) THE COMMISSIONER FINDS THAT AN EMERGENCY
30 REQUIRES IMMEDIATE ACTION BY THE COMMISSIONER; AND

31 (II) A COURT OF COMPETENT JURISDICTION HAS NOT
32 STAYED THE COMMISSIONER'S ACTION.

1 (C) (1) WHILE A REINSURER'S ACCREDITATION OR CERTIFICATION IS
 2 SUSPENDED, A REINSURANCE CONTRACT ISSUED OR RENEWED AFTER THE
 3 EFFECTIVE DATE OF THE SUSPENSION DOES NOT QUALIFY FOR CREDIT EXCEPT
 4 TO THE EXTENT THE REINSURER'S OBLIGATIONS UNDER THE CONTRACT ARE
 5 SECURED IN ACCORDANCE WITH ~~§ 5-912~~ § 5-914 OF THIS SUBTITLE.

6 (2) IF A REINSURER'S ACCREDITATION OR CERTIFICATION IS
 7 REVOKED, CREDIT FOR REINSURANCE MAY NOT BE GRANTED AFTER THE
 8 EFFECTIVE DATE OF THE REVOCATION EXCEPT TO THE EXTENT THAT THE
 9 REINSURER'S OBLIGATIONS UNDER THE CONTRACT ARE SECURED IN
 10 ACCORDANCE WITH ~~§ 5-909 OR § 5-912~~ § 5-911 OR § 5-914 OF THIS SUBTITLE.

11 ~~5-911, 5-913.~~

12 (A) IF THE ASSUMING INSURER IS NOT LICENSED, ACCREDITED, OR
 13 CERTIFIED TO TRANSACT INSURANCE OR REINSURANCE IN THIS STATE, THE
 14 CREDIT ALLOWED BY ~~§ 5-903(D)~~ § 5-904(E) OF THIS SUBTITLE MAY NOT BE
 15 ALLOWED UNLESS THE ASSUMING INSURER AGREES IN THE REINSURANCE
 16 ~~AGREEMENTS~~ CONTRACTS:

17 (1) THAT IN THE EVENT OF THE FAILURE OF THE ASSUMING
 18 INSURER TO PERFORM ITS OBLIGATIONS UNDER THE TERMS OF THE
 19 REINSURANCE ~~AGREEMENT~~ CONTRACT, THE ASSUMING INSURER, AT THE
 20 REQUEST OF THE ~~OF THE~~ CEDING INSURER, SHALL:

21 (I) SUBMIT TO THE JURISDICTION OF ANY COURT OF
 22 COMPETENT JURISDICTION IN ANY STATE;

23 (II) COMPLY WITH ALL REQUIREMENTS NECESSARY TO GIVE
 24 THE COURT JURISDICTION; AND

25 (III) ABIDE BY THE FINAL DECISION OF THE COURT OR OF
 26 ANY APPELLATE COURT IN CASE OF AN APPEAL; AND

27 (2) TO DESIGNATE THE COMMISSIONER AS ITS RESIDENT AGENT
 28 ON WHOM ANY LAWFUL PROCESS MAY BE SERVED IN ANY ACTION, SUIT, OR
 29 PROCEEDING INSTITUTED BY OR ON BEHALF OF THE CEDING INSURER.

30 (B) SUBSECTION (A) OF THIS SECTION IS NOT INTENDED TO CONFLICT
 31 WITH OR OVERRIDE THE OBLIGATION OF THE PARTIES TO A REINSURANCE
 32 ~~AGREEMENT~~ CONTRACT TO ARBITRATE THEIR DISPUTES, IF THIS OBLIGATION
 33 IS CREATED IN THE REINSURANCE ~~AGREEMENT~~ CONTRACT.

1 (C) IF THE ASSUMING INSURER DOES NOT MEET THE REQUIREMENTS
2 OF ~~§ 5-903(B)~~ § 5-904(C) OR ~~(C)~~ (D) OF THIS SUBTITLE, THE CREDIT ALLOWED
3 BY ~~§ 5-903(D)~~ § 5-904(E) AND ~~(E)~~ (F) OF THIS SUBTITLE MAY NOT BE ALLOWED
4 UNLESS THE ASSUMING INSURER AGREES IN THE TRUST AGREEMENTS TO THE
5 FOLLOWING CONDITIONS:

6 (1) NOTWITHSTANDING ANY OTHER PROVISION IN THE TRUST
7 INSTRUMENT, IF THE TRUST FUND IS INADEQUATE BECAUSE IT CONTAINS AN
8 AMOUNT LESS THAN THE AMOUNT REQUIRED BY ~~§ 5-905(J)~~ § 5-907(J) OF THIS
9 SUBTITLE, OR IF THE GRANTOR OF THE TRUST HAS BEEN DECLARED INSOLVENT
10 OR PLACED INTO RECEIVERSHIP, REHABILITATION, LIQUIDATION, OR SIMILAR
11 PROCEEDINGS UNDER THE LAWS OF ITS STATE OR COUNTRY OF DOMICILE, THE
12 TRUSTEE SHALL COMPLY WITH AN ORDER OF THE ~~COMMISSIONER~~ INSURANCE
13 REGULATORY AGENCY WITH REGULATORY OVERSIGHT OVER THE TRUST OR
14 WITH AN ORDER OF A COURT OF COMPETENT JURISDICTION DIRECTING THE
15 TRUSTEE TO TRANSFER TO THE ~~COMMISSIONER~~ INSURANCE REGULATORY
16 AGENCY WITH REGULATORY OVERSIGHT ALL OF THE ASSETS OF THE TRUST
17 FUND;

18 (2) THE ASSETS SHALL BE DISTRIBUTED BY AND CLAIMS SHALL
19 BE FILED WITH AND VALUED BY THE ~~COMMISSIONER~~ INSURANCE REGULATORY
20 AGENCY WITH REGULATORY OVERSIGHT OVER THE TRUST IN ACCORDANCE
21 WITH THE LAWS OF THE STATE IN WHICH THE TRUST IS DOMICILED THAT ARE
22 APPLICABLE TO THE LIQUIDATION OF DOMESTIC INSURERS;

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

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

34 ~~5-912.~~ 5-914.

35 (A) AN ASSET OR A REDUCTION FROM LIABILITY FOR THE
36 REINSURANCE CEDED BY A DOMESTIC INSURER TO AN ASSUMING INSURER NOT
37 MEETING THE REQUIREMENTS OF ~~§ 9-503~~ § 5-904 OF THIS SUBTITLE SHALL BE

1 ALLOWED IN AN AMOUNT NOT EXCEEDING THE LIABILITIES CARRIED BY THE
2 CEDING INSURER.

3 (B) THE REDUCTION SHALL BE IN THE AMOUNT OF FUNDS HELD BY OR
4 ON BEHALF OF THE CEDING INSURER, INCLUDING FUNDS HELD IN TRUST FOR
5 THE CEDING INSURER, UNDER A REINSURANCE CONTRACT WITH THE ASSUMING
6 INSURER AS SECURITY FOR THE PAYMENT OF OBLIGATIONS UNDER THE
7 CONTRACT, IF THE SECURITY IS HELD:

8 (1) IN THE UNITED STATES SUBJECT TO WITHDRAWAL SOLELY
9 BY, AND UNDER THE EXCLUSIVE CONTROL OF, THE CEDING INSURER; OR

10 (2) IN THE CASE OF A TRUST, HELD IN A QUALIFIED UNITED
11 STATES FINANCIAL INSTITUTION.

12 (C) THE SECURITY MAY BE IN THE FORM OF:

13 (1) CASH;

14 (2) SECURITIES LISTED BY THE SECURITIES VALUATION OFFICE
15 OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, INCLUDING
16 THOSE DEEMED EXEMPT FROM FILING AS DEFINED BY THE PURPOSES AND
17 PROCEDURES MANUAL OF THE SECURITIES VALUATION OFFICE, AND
18 QUALIFYING AS ADMITTED ASSETS;

19 (3) SUBJECT TO SUBSECTION (D) OF THIS SECTION, CLEAN,
20 IRREVOCABLE, UNCONDITIONAL LETTERS OF CREDIT, ISSUED OR CONFIRMED
21 BY A QUALIFIED UNITED STATES FINANCIAL INSTITUTION, EFFECTIVE NO
22 LATER THAN DECEMBER 31 OF THE YEAR FOR WHICH THE FILING IS BEING
23 MADE, AND IN THE POSSESSION OF, OR IN TRUST FOR, THE CEDING INSURER ON
24 OR BEFORE THE FILING DATE OF THE CEDING INSURER'S ANNUAL STATEMENT;
25 OR

26 (4) ANY OTHER FORM OF SECURITY ACCEPTABLE TO THE
27 COMMISSIONER.

28 (D) NOTWITHSTANDING THE SUBSEQUENT FAILURE OF THE ISSUING OR
29 CONFIRMING INSTITUTION TO MEET APPLICABLE STANDARDS OF ISSUER
30 ACCEPTABILITY, A LETTER OF CREDIT MEETING APPLICABLE STANDARDS OF
31 ISSUER ACCEPTABILITY AS OF THE DATE OF ITS ISSUANCE OR CONFIRMATION
32 UNDER SUBSECTION (C)(3) OF THIS SECTION SHALL CONTINUE TO BE
33 ACCEPTABLE AS SECURITY UNTIL THE LETTER OF CREDIT EXPIRES OR IS
34 EXTENDED, RENEWED, MODIFIED, OR AMENDED, WHICHEVER OCCURS FIRST.

1 ~~5-913.~~ 5-915.

2 (A) (1) A CEDING INSURER SHALL TAKE STEPS TO MANAGE ITS
3 REINSURANCE RECOVERABLES PROPORTIONATE TO ITS OWN BOOK OF
4 BUSINESS.

5 (2) (I) A DOMESTIC CEDING INSURER SHALL NOTIFY THE
6 COMMISSIONER WITHIN 30 DAYS AFTER REINSURANCE RECOVERABLES FROM
7 ANY SINGLE ASSUMING INSURER, OR GROUP OF AFFILIATED ASSUMING
8 INSURERS, EXCEEDS OR IS LIKELY TO EXCEED 50% OF THE DOMESTIC CEDING
9 INSURER'S LAST REPORTED SURPLUS TO POLICYHOLDERS.

10 (II) THE NOTIFICATION REQUIRED BY SUBPARAGRAPH (I)
11 OF THIS PARAGRAPH SHALL DEMONSTRATE THAT THE DOMESTIC CEDING
12 INSURER IS SAFELY MANAGING THE EXPOSURE.

13 (B) (1) A CEDING INSURER SHALL TAKE STEPS TO DIVERSIFY ITS
14 REINSURANCE PROGRAM.

15 (2) (I) A DOMESTIC CEDING INSURER SHALL NOTIFY THE
16 COMMISSIONER WITHIN 30 DAYS AFTER CEDING OR BEING LIKELY TO CEDE TO
17 ANY SINGLE ASSUMING INSURER, OR GROUP OF AFFILIATED ASSUMING
18 INSURERS, MORE THAN 20% OF THE CEDING INSURER'S GROSS WRITTEN
19 PREMIUM IN THE PRIOR CALENDAR YEAR.

20 (II) THE NOTIFICATION REQUIRED BY SUBPARAGRAPH (I)
21 OF THIS PARAGRAPH SHALL DEMONSTRATE THAT THE DOMESTIC CEDING
22 INSURER IS SAFELY MANAGING THE EXPOSURE.

23 ~~5-914.~~ 5-916.

24 THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THIS
25 SUBTITLE.

26 SECTION 2. AND BE IT FURTHER ENACTED, That credit for reinsurance
27 ceded to a reinsurer under this Act may be allowed only for reinsurance contracts
28 entered into or renewed on or after the effective date of the certification of the
29 assuming insurer by the Maryland Insurance Commissioner under this Act.

30 SECTION 3. AND BE IT FURTHER ENACTED, That a presently existing
31 obligation or contract right may not be impaired in any way by this Act.

32 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take
33 effect June 1, 2013.