

SENATE BILL 777

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By: **Senator Pugh**

Introduced and read first time: February 1, 2013

Assigned to: Finance

A BILL ENTITLED

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; requiring the Commissioner to assign certain ratings to
25 certain certified reinsurers in a certain manner and to publish a list of the
26 reinsurers and their ratings; authorizing the Commissioner to defer to the
27 certification and rating assigned by certain jurisdictions under certain
28 circumstances; providing for the maintenance of certification in an inactive
29 status under certain circumstances; requiring a certified reinsurer to secure
30 certain obligations in certain manners and forms and at certain levels; requiring
31 the Commissioner to reduce certain allowable credit under certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 circumstances; authorizing the Commissioner to suspend or revoke the
2 accreditation or certification of a reinsurer in a certain manner under certain
3 circumstances; limiting the qualification for credit of certain reinsurance
4 contracts under certain circumstances; prohibiting certain credit if the
5 assuming insurer is not licensed, accredited, or certified except under certain
6 circumstances and in a certain manner; providing for the construction of a
7 certain provision of this Act; providing for certain assets or reductions from
8 liability for certain reinsurance in a certain manner under certain
9 circumstances; requiring certain security to be in certain forms and held in
10 certain places and certain institutions; requiring a ceding insurer to take
11 certain steps to manage certain recoverables and to notify the Commissioner in
12 certain manners; requiring a ceding insurer to diversify its portfolio and notify
13 the Commissioner in certain manners; authorizing the Commissioner to adopt
14 certain regulations; repealing certain obsolete provisions; defining certain
15 terms; and generally relating to insurance and reinsurance.

16 BY repealing and reenacting, with amendments,
17 Article – Insurance
18 Section 5–901
19 Annotated Code of Maryland
20 (2011 Replacement Volume and 2012 Supplement)

21 BY repealing and reenacting, without amendments,
22 Article – Insurance
23 Section 5–902
24 Annotated Code of Maryland
25 (2011 Replacement Volume and 2012 Supplement)

26 BY adding to
27 Article – Insurance
28 Section 5–902.1 and 5–903 through 5–914
29 Annotated Code of Maryland
30 (2011 Replacement Volume and 2012 Supplement)

31 BY repealing
32 Article – Insurance
33 Section 5–903, 5–904, and 5–905
34 Annotated Code of Maryland
35 (2011 Replacement Volume and 2012 Supplement)

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

38 **Article – Insurance**

39 5–901.

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

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

4 (c) **“QUALIFIED UNITED STATES FINANCIAL INSTITUTION” MEANS:**

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

7 **(I) IS ORGANIZED OR, IN THE CASE OF A UNITED STATES**
8 **OFFICE OF A FOREIGN BANKING ORGANIZATION, LICENSED UNDER THE LAWS**
9 **OF THE UNITED STATES OR ANY STATE;**

10 **(II) IS REGULATED, SUPERVISED, AND EXAMINED BY**
11 **FEDERAL OR STATE AUTHORITIES HAVING REGULATORY AUTHORITY OVER**
12 **BANKS AND TRUST COMPANIES; AND**

13 **(III) HAS BEEN DETERMINED BY EITHER THE**
14 **COMMISSIONER OR THE SECURITIES VALUATION OFFICE OF THE NATIONAL**
15 **ASSOCIATION OF INSURANCE COMMISSIONERS TO MEET THE STANDARDS OF**
16 **FINANCIAL CONDITION AND STANDING THAT ARE CONSIDERED NECESSARY AND**
17 **APPROPRIATE TO REGULATE THE QUALITY OF FINANCIAL INSTITUTIONS WHOSE**
18 **LETTERS OF CREDIT WILL BE ACCEPTABLE TO THE COMMISSIONER; OR**

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

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

25 **(II) IS REGULATED, SUPERVISED, AND EXAMINED BY**
26 **FEDERAL OR STATE AUTHORITIES HAVING REGULATORY AUTHORITY OVER**
27 **BANKS AND TRUST COMPANIES.**

28 **[(c)] (D)** “Reinsurer” means an insurer from which a ceding insurer
29 procures insurance for itself for all or part of an insurance risk.

30 5-902.

31 This subtitle does not apply to wet marine and transportation insurance.

1 **5-902.1.**

2 CREDIT FOR REINSURANCE SHALL BE ALLOWED A DOMESTIC CEDING
3 INSURER AS EITHER AN ASSET OR A REDUCTION FROM LIABILITY ON ACCOUNT
4 OF REINSURANCE CEDED IF THE REINSURER MEETS THE REQUIREMENTS OF
5 THIS SUBTITLE.

6 **[5-903.**

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

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

11 **5-903.**

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

19 (2) CREDIT SHALL BE ALLOWED UNDER SUBSECTION (D) OR (E)
20 OF THIS SECTION ONLY IF THE APPLICABLE REQUIREMENTS OF § 5-911 OF THIS
21 SUBTITLE HAVE BEEN SATISFIED.

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

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

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

1 **(E) CREDIT SHALL BE ALLOWED WHEN THE REINSURANCE IS CEDED TO**
2 **AN ASSUMING INSURER THAT HAS BEEN CERTIFIED BY THE COMMISSIONER AS**
3 **A REINSURER IN THIS STATE AND SECURES ITS OBLIGATIONS IN ACCORDANCE**
4 **WITH THE REQUIREMENTS OF § 5-909 OF THIS SUBTITLE.**

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

10 [5-904.

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

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

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

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

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

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

31 (3) (i) Notwithstanding paragraph (2) of this subsection, if a life
32 and health insurance guaranty association has elected to succeed to the rights and
33 obligations of an insolvent insurer under a reinsurance contract, the reinsurer's
34 liability to pay covered reinsured claims shall continue under the reinsurance
35 contract, subject to the payment of premiums to the reinsurer for the reinsurance
36 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 may provide that the domiciliary receiver
9 of an insolvent ceding insurer shall give written notice to the reinsurer of the
10 pendency of a claim made against the insolvent ceding insurer under the contract
11 reinsured within a reasonable time after the claim is filed in the liquidation
12 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 as though the
25 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 or arrangements.]

29 **5-904.**

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;**

1 **(2) SUBMIT TO THIS STATE'S AUTHORITY TO EXAMINE ITS BOOKS**
2 **AND RECORDS;**

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

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

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

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

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

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

22 **[5-905.**

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

25 (1) an annual statement on convention form;

26 (2) a certificate evidencing a deposit; and

27 (3) a certificate of compliance.]

28 **5-905.**

29 **(A) TO ENABLE THE COMMISSIONER TO DETERMINE THE SUFFICIENCY**
30 **OF THE TRUST FUND PROVIDED FOR IN § 5-903(D) OF THIS SUBTITLE, THE**
31 **ASSUMING INSURER SHALL REPORT EACH YEAR TO THE COMMISSIONER**

1 INFORMATION SUBSTANTIALLY THE SAME AS THAT REQUIRED TO BE REPORTED
2 ON THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS ANNUAL
3 STATEMENT FORM BY LICENSED INSURERS.

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

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

10 (1) THE COMMISSIONER OF THE STATE WHERE THE TRUST IS
11 DOMICILED; OR

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

15 (D) THE FORM OF THE TRUST AND ANY TRUST AMENDMENTS SHALL BE
16 FILED WITH THE COMMISSIONER OF EACH STATE IN WHICH THE CEDING
17 INSURER BENEFICIARIES OF THE TRUST ARE 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 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 SUBJECT TO THE TRUST.

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

1 **(1) REPORT TO THE COMMISSIONER IN WRITING THE BALANCE**
2 **OF THE TRUST AND LIST THE TRUST'S INVESTMENTS AT THE PRECEDING**
3 **YEAR-END; AND**

4 **(2) CERTIFY THE DATE OF TERMINATION OF THE TRUST, IF SO**
5 **PLANNED, OR CERTIFY THAT THE TRUST WILL NOT EXPIRE BEFORE THE**
6 **FOLLOWING DECEMBER 31.**

7 **(J) (1) IN THE CASE OF A SINGLE ASSUMING INSURER:**

8 **(I) THE TRUST FUND SHALL CONSIST OF FUNDS IN TRUST**
9 **IN AN AMOUNT NOT LESS THAN THE ASSUMING INSURER'S LIABILITIES**
10 **ATTRIBUTABLE TO REINSURANCE CEDED BY UNITED STATES CEDING**
11 **INSURERS; AND**

12 **(II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
13 **SUBSECTION, THE ASSUMING INSURER SHALL MAINTAIN A TRUSTEED SURPLUS**
14 **OF NOT LESS THAN \$20,000,000.**

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

25 **(II) THE RISK ASSESSMENT UNDER SUBPARAGRAPH (I) OF**
26 **THIS PARAGRAPH:**

27 **1. MAY INVOLVE AN ACTUARIAL REVIEW, INCLUDING**
28 **AN INDEPENDENT ANALYSIS OF RESERVES AND CASH FLOWS; AND**

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

1 **(III) THE MINIMUM REQUIRED TRUSTEED SURPLUS UNDER**
2 **SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY NOT BE REDUCED TO AN AMOUNT**
3 **LESS THAN 30% OF THE ASSUMING INSURER'S LIABILITIES ATTRIBUTABLE TO**
4 **REINSURANCE CEDED BY UNITED STATES CEDING INSURERS COVERED BY THE**
5 **TRUST.**

6 **(3) (I) IN THE CASE OF A GROUP INCLUDING INCORPORATED**
7 **AND INDIVIDUAL UNINCORPORATED UNDERWRITERS:**

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

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

21 **3. 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 **(II) THE INCORPORATED MEMBERS OF THE GROUP:**

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

29 **2. 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 **(III) WITHIN 90 DAYS AFTER ITS FINANCIAL STATEMENTS**
33 **ARE DUE TO BE FILED WITH THE GROUP'S DOMICILIARY REGULATOR, THE**
34 **GROUP SHALL PROVIDE TO THE COMMISSIONER:**

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

4 2. 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 \$10,000,000,000;

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.**

29 (A) IN ORDER TO BE ELIGIBLE FOR CERTIFICATION IN ACCORDANCE
30 WITH § 5-903(E) 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 OF THIS SUBTITLE;

1 **(2) MAINTAIN MINIMUM CAPITAL AND SURPLUS, OR ITS**
2 **EQUIVALENT, IN AN AMOUNT THE COMMISSIONER DETERMINES;**

3 **(3) MAINTAIN FINANCIAL STRENGTH RATINGS FROM TWO OR**
4 **MORE RATING AGENCIES THAT THE COMMISSIONER CONSIDERS ACCEPTABLE;**

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

6 **(5) APPOINT THE COMMISSIONER AS ITS AGENT FOR SERVICE OF**
7 **PROCESS IN THIS STATE;**

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

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

15 **(8) SATISFY ANY OTHER REQUIREMENTS FOR CERTIFICATION**
16 **THAT THE COMMISSIONER CONSIDERS RELEVANT.**

17 **(B) (1) AN ASSOCIATION, INCLUDING INCORPORATED AND**
18 **INDIVIDUAL UNINCORPORATED UNDERWRITERS, MAY BE A CERTIFIED**
19 **REINSURER IF THE ASSOCIATION, INCLUDING INCORPORATED AND INDIVIDUAL**
20 **UNINCORPORATED UNDERWRITERS, MEETS THE REQUIREMENTS OF THIS**
21 **SUBSECTION AND SUBSECTION (A) OF THIS SECTION.**

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

28 **(3) THE INCORPORATED MEMBERS OF THE ASSOCIATION MAY**
29 **NOT BE ENGAGED IN ANY BUSINESS OTHER THAN UNDERWRITING AS A MEMBER**
30 **OF THE ASSOCIATION.**

31 **(4) THE INCORPORATED MEMBERS OF THE ASSOCIATION SHALL**
32 **BE SUBJECT TO THE SAME LEVEL OF REGULATION AND SOLVENCY CONTROL BY**

1 THE ASSOCIATION'S DOMICILIARY REGULATOR AS ARE THE UNINCORPORATED
2 MEMBERS.

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

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

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

12 5-907.

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 TO SHARE
29 INFORMATION AND COOPERATE WITH THE COMMISSIONER WITH RESPECT TO
30 ALL CERTIFIED REINSURERS DOMICILED IN THAT JURISDICTION.

31 (4) THE COMMISSIONER MAY NOT RECOGNIZE AS A QUALIFIED
32 JURISDICTION A JURISDICTION THAT THE COMMISSIONER DETERMINES DOES

1 NOT ADEQUATELY AND PROMPTLY ENFORCE 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 LIST OF QUALIFIED JURISDICTIONS PUBLISHED
7 THROUGH THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS
8 COMMITTEE PROCESS.

9 (2) THE COMMISSIONER SHALL CONSIDER THE NATIONAL
10 ASSOCIATION OF INSURANCE COMMISSIONERS LIST IN DETERMINING
11 QUALIFIED JURISDICTIONS.

12 (3) IF THE COMMISSIONER APPROVES A JURISDICTION AS
13 QUALIFIED THAT DOES NOT APPEAR ON THE NATIONAL ASSOCIATION OF
14 INSURANCE COMMISSIONERS LIST OF QUALIFIED JURISDICTIONS, THE
15 COMMISSIONER SHALL PROVIDE THOROUGHLY DOCUMENTED JUSTIFICATION
16 IN ACCORDANCE WITH CRITERIA TO BE DEVELOPED UNDER REGULATIONS THE
17 COMMISSIONER ADOPTS.

18 (4) UNITED STATES JURISDICTIONS THAT MEET THE
19 REQUIREMENT FOR ACCREDITATION UNDER THE NATIONAL ASSOCIATION OF
20 INSURANCE COMMISSIONERS FINANCIAL STANDARDS AND ACCREDITATION
21 PROGRAM SHALL BE RECOGNIZED AS QUALIFIED JURISDICTIONS IN THIS
22 STATE.

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

26 5-908.

27 (A) (1) THE COMMISSIONER SHALL ASSIGN A RATING TO EACH
28 CERTIFIED REINSURER, GIVING DUE CONSIDERATION TO THE FINANCIAL
29 STRENGTH RATINGS THAT HAVE BEEN ASSIGNED BY RATING AGENCIES THAT
30 THE COMMISSIONER CONSIDERS ACCEPTABLE IN ACCORDANCE WITH
31 REGULATIONS THE COMMISSIONER ADOPTS.

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

1 **(B) IF AN APPLICANT FOR CERTIFICATION HAS BEEN CERTIFIED AS A**
2 **REINSURER IN A JURISDICTION ACCREDITED BY THE NATIONAL ASSOCIATION**
3 **OF INSURANCE COMMISSIONERS:**

4 **(1) THE COMMISSIONER MAY DEFER TO THAT JURISDICTION'S**
5 **CERTIFICATION AND TO THE RATING ASSIGNED BY THAT JURISDICTION; AND**

6 **(2) THE ASSUMING INSURER SHALL BE CONSIDERED TO BE A**
7 **CERTIFIED REINSURER IN THIS STATE.**

8 **(C) (1) A CERTIFIED REINSURER THAT CEASES TO ASSUME NEW**
9 **BUSINESS IN THIS STATE MAY REQUEST TO MAINTAIN ITS CERTIFICATION IN**
10 **INACTIVE STATUS IN ORDER TO CONTINUE TO QUALIFY FOR A REDUCTION IN**
11 **SECURITY FOR ITS IN-FORCE BUSINESS.**

12 **(2) AN INACTIVE CERTIFIED REINSURER SHALL CONTINUE TO**
13 **COMPLY WITH ALL APPLICABLE REQUIREMENTS OF § 5-909 OF THIS SUBTITLE.**

14 **(3) THE COMMISSIONER SHALL ASSIGN A RATING THAT TAKES**
15 **INTO ACCOUNT, IF RELEVANT, THE REASONS WHY THE REINSURER IS NOT**
16 **ASSUMING NEW BUSINESS.**

17 **5-909.**

18 **(A) A CERTIFIED REINSURER SHALL SECURE OBLIGATIONS ASSUMED**
19 **FROM UNITED STATES CEDING INSURERS UNDER THIS SUBTITLE AT A LEVEL**
20 **CONSISTENT WITH ITS RATING, AS SPECIFIED IN REGULATIONS THE**
21 **COMMISSIONER ADOPTS.**

22 **(B) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IN ORDER FOR**
23 **A DOMESTIC CEDING INSURER TO QUALIFY FOR FULL FINANCIAL STATEMENT**
24 **CREDIT FOR REINSURANCE CEDED TO A CERTIFIED REINSURER, THE CERTIFIED**
25 **REINSURER SHALL MAINTAIN SECURITY IN A FORM THE COMMISSIONER**
26 **CONSIDERS ACCEPTABLE AND CONSISTENT WITH THE PROVISIONS OF § 5-912**
27 **OF THIS SUBTITLE, OR IN A MULTIBENEFICIARY TRUST IN ACCORDANCE WITH §**
28 **5-905 OF THIS SUBTITLE.**

29 **(C) (1) IF A CERTIFIED REINSURER MAINTAINS A TRUST TO FULLY**
30 **SECURE ITS OBLIGATIONS CONSISTENT WITH THE PROVISIONS OF § 5-905 OF**
31 **THIS SUBTITLE AND CHOOSES TO SECURE ITS OBLIGATIONS INCURRED AS A**
32 **CERTIFIED REINSURER IN THE FORM OF A MULTIBENEFICIARY TRUST, THE**
33 **CERTIFIED REINSURER SHALL MAINTAIN SEPARATE TRUST ACCOUNTS FOR ITS**
34 **OBLIGATIONS INCURRED UNDER REINSURANCE AGREEMENTS ISSUED OR**

1 RENEWED AS A CERTIFIED REINSURER WITH REDUCED SECURITY AS ALLOWED
2 BY THIS SECTION OR COMPARABLE LAWS OF OTHER UNITED STATES
3 JURISDICTIONS AND FOR ITS OBLIGATIONS SUBJECT TO § 5-905 OF THIS
4 SUBTITLE.

5 (2) AS A CONDITION OF CERTIFICATION UNDER § 5-906 OF THIS
6 SUBTITLE, THE CERTIFIED REINSURER SHALL BIND ITSELF, BY THE LANGUAGE
7 OF THE TRUST AND AGREEMENT WITH THE COMMISSIONER WITH PRINCIPAL
8 REGULATORY OVERSIGHT OF EACH TRUST ACCOUNT, TO FUND, ON
9 TERMINATION OF THE TRUST ACCOUNT, OUT OF THE REMAINING SURPLUS OF
10 THE TRUST, ANY DEFICIENCY OF ANY OTHER TRUST ACCOUNT.

11 (D) THE MINIMUM TRUSTEED SURPLUS REQUIREMENTS PROVIDED IN §
12 5-905 OF THIS SUBTITLE DO NOT APPLY WITH RESPECT TO A
13 MULTIBENEFICIARY TRUST MAINTAINED BY A CERTIFIED REINSURER FOR THE
14 PURPOSE OF SECURING OBLIGATIONS INCURRED UNDER THIS SECTION, EXCEPT
15 THAT THE TRUST SHALL MAINTAIN A MINIMUM TRUSTEED SURPLUS OF
16 \$10,000,000.

17 (E) WITH RESPECT TO OBLIGATIONS INCURRED BY A CERTIFIED
18 REINSURER UNDER THIS SECTION, IF THE SECURITY IS INSUFFICIENT, THE
19 COMMISSIONER:

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

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

25 (F) (1) FOR PURPOSES OF THIS SECTION, A CERTIFIED REINSURER
26 WHOSE CERTIFICATION HAS BEEN REVOKED, SUSPENDED, VOLUNTARILY
27 SURRENDERED, OR PLACED ON INACTIVE STATUS FOR ANY REASON SHALL BE
28 TREATED AS A CERTIFIED REINSURER REQUIRED TO SECURE 100% OF ITS
29 OBLIGATIONS.

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

35 5-910.

1 **(A) AFTER PROVIDING NOTICE AND AN OPPORTUNITY FOR HEARING TO**
2 **THE REINSURER, THE COMMISSIONER MAY SUSPEND OR REVOKE A**
3 **REINSURER'S ACCREDITATION OR CERTIFICATION IF THE REINSURER CEASES**
4 **TO MEET THE REQUIREMENTS FOR ACCREDITATION OR CERTIFICATION.**

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

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

8 **(2) THE COMMISSIONER'S ORDER IS BASED ON A REGULATORY**
9 **ACTION BY THE REINSURER'S DOMICILIARY JURISDICTION OR PRIMARY**
10 **CERTIFYING STATE TERMINATING THE REINSURER'S ELIGIBILITY TO TRANSACT**
11 **INSURANCE OR REINSURANCE;**

12 **(3) THE REINSURER VOLUNTARILY SURRENDERS ITS LICENSE OR**
13 **CERTIFICATION TO TRANSACT INSURANCE OR REINSURANCE BUSINESS IN ITS**
14 **DOMICILIARY JURISDICTION OR PRIMARY CERTIFYING STATE; OR**

15 **(4) (I) AN EMERGENCY REQUIRES IMMEDIATE ACTION BY THE**
16 **COMMISSIONER; AND**

17 **(II) A COURT OF COMPETENT JURISDICTION HAS NOT**
18 **STAYED THE COMMISSIONER'S ACTION.**

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

24 **(2) IF A REINSURER'S ACCREDITATION OR CERTIFICATION IS**
25 **REVOKED, CREDIT FOR REINSURANCE MAY NOT BE GRANTED AFTER THE**
26 **EFFECTIVE DATE OF THE REVOCATION EXCEPT TO THE EXTENT THAT THE**
27 **REINSURER'S OBLIGATIONS UNDER THE CONTRACT ARE SECURED IN**
28 **ACCORDANCE WITH § 5-909 OR § 5-912 OF THIS SUBTITLE.**

29 **5-911.**

30 **(A) IF THE ASSUMING INSURER IS NOT LICENSED, ACCREDITED, OR**
31 **CERTIFIED TO TRANSACT INSURANCE OR REINSURANCE IN THIS STATE, THE**

1 CREDIT ALLOWED BY § 5-903(D) OF THIS SUBTITLE MAY NOT BE ALLOWED
2 UNLESS THE ASSUMING INSURER AGREES IN THE REINSURANCE AGREEMENTS:

3 (1) THAT IN THE EVENT OF THE FAILURE OF THE ASSUMING
4 INSURER TO PERFORM ITS OBLIGATIONS UNDER THE TERMS OF THE
5 REINSURANCE AGREEMENT, THE ASSUMING INSURER, AT THE REQUEST OF THE
6 OF THE CEDING INSURER, SHALL:

7 (I) SUBMIT TO THE JURISDICTION OF ANY COURT OF
8 COMPETENT JURISDICTION IN ANY STATE;

9 (II) COMPLY WITH ALL REQUIREMENTS NECESSARY TO GIVE
10 THE COURT JURISDICTION; AND

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

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

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

20 (C) IF THE ASSUMING INSURER DOES NOT MEET THE REQUIREMENTS
21 OF § 5-903(B) OR (C) OF THIS SUBTITLE, THE CREDIT ALLOWED BY § 5-903(D)
22 AND (E) OF THIS SUBTITLE MAY NOT BE ALLOWED UNLESS THE ASSUMING
23 INSURER AGREES IN THE TRUST AGREEMENTS TO THE FOLLOWING
24 CONDITIONS:

25 (1) NOTWITHSTANDING ANY OTHER PROVISION IN THE TRUST
26 INSTRUMENT, IF THE TRUST FUND IS INADEQUATE BECAUSE IT CONTAINS AN
27 AMOUNT LESS THAN THE AMOUNT REQUIRED BY § 5-905(J) OF THIS SUBTITLE,
28 OR IF THE GRANTOR OF THE TRUST HAS BEEN DECLARED INSOLVENT OR
29 PLACED INTO RECEIVERSHIP, REHABILITATION, LIQUIDATION, OR SIMILAR
30 PROCEEDINGS UNDER THE LAWS OF ITS STATE OR COUNTRY OF DOMICILE, THE
31 TRUSTEE SHALL COMPLY WITH AN ORDER OF THE COMMISSIONER WITH
32 REGULATORY OVERSIGHT OVER THE TRUST OR WITH AN ORDER OF A COURT OF
33 COMPETENT JURISDICTION DIRECTING THE TRUSTEE TO TRANSFER TO THE
34 COMMISSIONER WITH REGULATORY OVERSIGHT ALL OF THE ASSETS OF THE
35 TRUST FUND;

1 **(2) THE ASSETS SHALL BE DISTRIBUTED BY AND CLAIMS SHALL**
2 **BE FILED WITH AND VALUED BY THE COMMISSIONER WITH REGULATORY**
3 **OVERSIGHT OVER THE TRUST IN ACCORDANCE WITH THE LAWS OF THE STATE IN**
4 **WHICH THE TRUST IS DOMICILED THAT ARE APPLICABLE TO THE LIQUIDATION**
5 **OF DOMESTIC INSURERS;**

6 **(3) IF THE COMMISSIONER WITH REGULATORY OVERSIGHT OVER**
7 **THE TRUST DETERMINES THAT THE ASSETS OF THE TRUST FUND OR ANY PART**
8 **OF THE ASSETS ARE NOT NECESSARY TO SATISFY THE CLAIMS OF THE UNITED**
9 **STATES CEDING INSURERS OF THE GRANTOR OF THE TRUST, THE ASSETS OR**
10 **PART SHALL BE RETURNED BY THE COMMISSIONER WITH REGULATORY**
11 **OVERSIGHT TO THE TRUSTEE FOR DISTRIBUTION IN ACCORDANCE WITH THE**
12 **TRUST AGREEMENT; AND**

13 **(4) THE GRANTOR SHALL WAIVE ANY RIGHT OTHERWISE**
14 **AVAILABLE TO IT UNDER UNITED STATES LAW THAT IS INCONSISTENT WITH**
15 **THIS SUBSECTION.**

16 **5-912.**

17 **(A) AN ASSET OR A REDUCTION FROM LIABILITY FOR THE**
18 **REINSURANCE CEDED BY A DOMESTIC INSURER TO AN ASSUMING INSURER NOT**
19 **MEETING THE REQUIREMENTS OF § 9-503 OF THIS SUBTITLE SHALL BE**
20 **ALLOWED IN AN AMOUNT NOT EXCEEDING THE LIABILITIES CARRIED BY THE**
21 **CEDING INSURER.**

22 **(B) THE REDUCTION SHALL BE IN THE AMOUNT OF FUNDS HELD BY OR**
23 **ON BEHALF OF THE CEDING INSURER, INCLUDING FUNDS HELD IN TRUST FOR**
24 **THE CEDING INSURER, UNDER A REINSURANCE CONTRACT WITH THE ASSUMING**
25 **INSURER AS SECURITY FOR THE PAYMENT OF OBLIGATIONS UNDER THE**
26 **CONTRACT, IF THE SECURITY IS HELD:**

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

29 **(2) IN THE CASE OF A TRUST, HELD IN A QUALIFIED UNITED**
30 **STATES FINANCIAL INSTITUTION.**

31 **(C) THE SECURITY MAY BE IN THE FORM OF:**

32 **(1) CASH;**

1 **(2) SECURITIES LISTED BY THE SECURITIES VALUATION OFFICE**
2 **OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, INCLUDING**
3 **THOSE DEEMED EXEMPT FROM FILING AS DEFINED BY THE PURPOSES AND**
4 **PROCEDURES MANUAL OF THE SECURITIES VALUATION OFFICE, AND**
5 **QUALIFYING AS ADMITTED ASSETS;**

6 **(3) SUBJECT TO SUBSECTION (D) OF THIS SECTION, CLEAN,**
7 **IRREVOCABLE, UNCONDITIONAL LETTERS OF CREDIT, ISSUED OR CONFIRMED**
8 **BY A QUALIFIED UNITED STATES FINANCIAL INSTITUTION, EFFECTIVE NO**
9 **LATER THAN DECEMBER 31 OF THE YEAR FOR WHICH THE FILING IS BEING**
10 **MADE, AND IN THE POSSESSION OF, OR IN TRUST FOR, THE CEDING INSURER ON**
11 **OR BEFORE THE FILING DATE OF THE CEDING INSURER'S ANNUAL STATEMENT;**
12 **OR**

13 **(4) ANY OTHER FORM OF SECURITY ACCEPTABLE TO THE**
14 **COMMISSIONER.**

15 **(D) NOTWITHSTANDING THE SUBSEQUENT FAILURE OF THE ISSUING OR**
16 **CONFIRMING INSTITUTION TO MEET APPLICABLE STANDARDS OF ISSUER**
17 **ACCEPTABILITY, A LETTER OF CREDIT MEETING APPLICABLE STANDARDS OF**
18 **ISSUER ACCEPTABILITY AS OF THE DATE OF ITS ISSUANCE OR CONFIRMATION**
19 **UNDER SUBSECTION (C)(3) OF THIS SECTION SHALL CONTINUE TO BE**
20 **ACCEPTABLE AS SECURITY UNTIL THE LETTER OF CREDIT EXPIRES OR IS**
21 **EXTENDED, RENEWED, MODIFIED, OR AMENDED, WHICHEVER OCCURS FIRST.**

22 **5-913.**

23 **(A) (1) A CEDING INSURER SHALL TAKE STEPS TO MANAGE ITS**
24 **REINSURANCE RECOVERABLES PROPORTIONATE TO ITS OWN BOOK OF**
25 **BUSINESS.**

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

31 **(II) THE NOTIFICATION REQUIRED BY SUBPARAGRAPH (I)**
32 **OF THIS PARAGRAPH SHALL DEMONSTRATE THAT THE DOMESTIC CEDING**
33 **INSURER IS SAFELY MANAGING THE EXPOSURE.**

34 **(B) (1) A CEDING INSURER SHALL TAKE STEPS TO DIVERSIFY ITS**
35 **REINSURANCE PROGRAM.**

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

6 **(II) THE NOTIFICATION REQUIRED BY SUBPARAGRAPH (I)**
7 **OF THIS PARAGRAPH SHALL DEMONSTRATE THAT THE DOMESTIC CEDING**
8 **INSURER IS SAFELY MANAGING THE EXPOSURE.**

9 **5-914.**

10 **THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THIS**
11 **SUBTITLE.**

12 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
13 **June 1, 2013.**