

Article - Insurance

[Previous][Next]

§5–913.

(a) If the assuming insurer is not licensed, accredited, or certified to transact insurance or reinsurance in this State, the credit allowed by § 5–904(e) of this subtitle may not be allowed unless the assuming insurer agrees in the reinsurance contracts:

(1) that in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance contract, the assuming insurer, at the request of the ceding insurer, shall:

(i) submit to the jurisdiction of any court of competent jurisdiction in any state;

(ii) comply with all requirements necessary to give the court jurisdiction; and

(iii) abide by the final decision of the court or of any appellate court in case of an appeal; and

(2) to designate the Commissioner as its resident agent on whom any lawful process may be served in any action, suit, or proceeding instituted by or on behalf of the ceding insurer.

(b) Subsection (a) of this section is not intended to conflict with or override the obligation of the parties to a reinsurance contract to arbitrate their disputes, if this obligation is created in the reinsurance contract.

(c) If the assuming insurer does not meet the requirements of § 5–904(c) or (d) of this subtitle, the credit allowed by § 5–904(e) and (f) of this subtitle may not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

(1) notwithstanding any other provision in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by § 5–907(j) of this subtitle, or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the insurance regulatory agency with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the insurance regulatory agency with regulatory oversight all of the assets of the trust fund;

(2) the assets shall be distributed by and claims shall be filed with and valued by the insurance regulatory agency with regulatory oversight over the trust in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurers;

(3) if the insurance regulatory agency with regulatory oversight over the trust determines that the assets of the trust fund or any part of the assets are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the assets or part shall be returned by the insurance regulatory agency with regulatory oversight to the trustee for distribution in accordance with the trust agreement; and

(4) the grantor shall waive any right otherwise available to it under United States law that is inconsistent with this subsection.

[Previous][Next]