

**Maryland General Assembly  
Department of Legislative Services**

**Proposed Regulations  
Maryland Insurance Administration  
(DLS Control No. 14-113)**

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**Overview and Legal and Fiscal Impact**

The proposal updates regulations on the oversight of reinsurance in the State in accordance with a recent legislative enactment, Chapter 321 of 2013, which rewrote the statutes governing ceding insurers and reinsurance to implement recent changes in the Model Law on Credit for Reinsurance developed by the National Association of Insurance Commissioners. In particular, the proposal implements changes to the credit allowed to ceding insurers that use accredited and certified reinsurers operating in the State.

The proposal presents no legal issue of concern.

There is no fiscal impact on State or local agencies.

**Regulations of COMAR Affected**

**Maryland Insurance Administration:**

Assets, Liabilities, Reserves, and Investments of Insurers: Credit for Reinsurance:  
COMAR 31.05.08.02-.28

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**Legal Analysis**

**Background**

Reinsurance is one of several methods by which insurers manage risk associated with the policies they issue. In reinsurance a “ceding insurer” transfers all or a part of the liability associated with a particular risk to an “assuming insurer”. To the extent that the assuming insurer is assured to be capable of securing the risk, through an accreditation or certification process and maintenance of certain reserves, the ceding insurer may be relieved of the obligation to provide independent security for the transferred liability. This takes the form of a credit that is allowed to the ceding insurer as an asset or as a deduction from liability for the reinsurance obtained. Reinsurance in the State has been regulated under Title 5, Subtitle 9 of the Insurance Article and its predecessor statute since 1995.

Chapter 321 of 2013 comprehensively rewrote Title 5, Subtitle 9, implementing many of the modernized provisions of the Model Law on Credit for Reinsurance adopted by the National Association of Insurance Commissioners in 2011. This proposal accurately updates COMAR 31.05.08 to reflect these changes to Title 5, Subtitle 9.

## Summary of Regulations

In implementing Chapter 321, this proposal adds several new regulations on certified reinsurers, qualified jurisdictions, and related matters; makes numerous substantive changes to existing Regulations .01 through .24; and makes conforming and updating changes to terminology throughout COMAR 31.05.08.

Chapter 321 newly established a process for the Maryland Insurance Commissioner to determine certain qualified jurisdictions from which reinsurers would be eligible to be certified to do business as “certified reinsurers” in this State. The proposal implements these provisions in new Regulations .25 through .27. Regulation .27 implements the process for the Commissioner to recognize a jurisdiction as a “qualifying jurisdiction”. Regulation .25 establishes the certification process for reinsurers, the rating system for reinsurers, and the security required for each certification rating. Regulation .25G governs adjustment of security and rating, and Regulation .26 deals with changes in rating and suspension or revocation of the certification of a certified reinsurer.

New Regulation .28 requires each reinsurance contract entered into with a certified reinsurer to include a funding clause that obliges the certified reinsurer to maintain security sufficient to avoid any unfavorable financial accounting treatment on the ceding insurer under for the reinsurance ceded to the certified reinsurer.

Updating existing provisions, the proposal adds three new defined terms to Regulation .02, “NAIC”, “qualified jurisdiction”, and “reinsurance intermediary”, and makes conforming changes in other definitions. In Regulation .03, the proposal allows a domestic authorized insurer credit for reinsurance, either as an asset or as a deduction from liability, obtained from a certified reinsurer.

Changes to Regulation .05 expand the filing and information submission requirements for a reinsurer to become and remain eligible to act as an accredited reinsurer in the State. The Commissioner may now suspend as well as revoke accreditation or certification of a reinsurer, and changes to Regulation .07 deal with the effect of a suspension or revocation on reinsurance contracts and credits.

In Regulation .08, the surplus required for certain reinsurers that have ceased to write new business may be decreased only after a risk assessment review by the insurance regulatory agency with principal regulatory authority over the trust used by the reinsurer for multiple ceding insurers. Other changes to provisions dealing with reinsurers who use such trusts in Regulations .08 through .10 are technical.

Changes to Regulation .15 specify the valuation and form of assets deposited in a trust account. Regulation .23C requires a reinsurance contract to include a proper reinsurance intermediary clause, if applicable, stipulating that the credit risk for a reinsurance intermediary is borne by the assuming insurer.

The proposal also makes a number of changes in terminology throughout existing Regulations .01 through .24 to conform these provisions with the language of Chapter 321, such as changing reinsurance “agreement” to be reinsurance “contract”, and updates the titles of several organizations in the existing regulations.

## **Legal Issue**

The proposal presents no legal issue of concern.

## **Statutory Authority and Legislative Intent**

The proposal implements the expanded and revised laws relating to reinsurance, ceding and assuming insurers, and accreditation and certification of assuming insurers enacted by Chapter 321 of 2013, codified as §§ 5-901 through 5-916 of the Insurance Article. The Maryland Insurance Administration cites this chapter and section range as authority for the regulations.

This authority is correct and complete. Except as noted below in “Technical Corrections,” the proposal complies with the apparent legislative intent of the law.

## **Technical Corrections and Special Notes**

The proposal implements Chapter 321 of 2013, but has not incorporated minor subsequent changes enacted by Chapter 366 of 2014, that dealt with the identification of conditionally qualified jurisdictions in which certified reinsurers may be domiciled and additional information that the Commissioner may use to certify and assign ratings to certified reinsurers. Minor changes are needed in proposed Regulations .25E(5) and .27B to implement Chapter 366. If the administration does not make these changes at the time of initial publication in the *Maryland Register*, the administration may incorporate these provisions as nonsubstantive changes in its Notice of Final Action.

## **Fiscal Analysis**

There is no fiscal impact on State or local agencies.

## **Agency Estimate of Projected Fiscal Impact**

The administration advises that the regulations have minimal or no impact on State or local governments. The Department of Legislative Services concurs and notes that the regulations reflect current practices and implement Chapter 321 of 2013 (SB 777). While the proposed actions specify that an applicant for eligibility as an accredited reinsurer must pay an annual fraud fee in addition to the existing annual statement fee, both fees are already charged annually.

## **Impact on Budget**

There is no impact on the State operating or capital budget.

## **Agency Estimate of Projected Small Business Impact**

The administration advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

### **Contact Information**

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