

MARYLAND REGISTER

**Proposed Action on Regulations**

<b>Transmittal Sheet</b>  <b>PROPOSED OR REPROPOSED</b>  <b>Actions on Regulations</b>	<b>Date Filed with AELR Committee</b>	<b>TO BE COMPLETED BY DSD</b>
	07/11/2016	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

**1. Desired date of publication in Maryland Register: 8/19/2016**

**2. COMAR Codification**

<b>Title</b>	<b>Subtitle</b>	<b>Chapter</b>	<b>Regulation</b>
31	09	07	03
31	13	01	04, .21
31	13	02	02, .03, .04
31	13	03	04, .16

**3. Name of Promulgating Authority**

Maryland Insurance Administration

**4. Name of Regulations Coordinator**  
Lisa M Larson

**Telephone Number**  
410-468-2007

**Mailing Address**

200 St. Paul Pl., Ste. 2700

**City**            **State**        **Zip Code**  
Baltimore        MD            21202

**Email**

lisa.larson@maryland.gov

**5. Name of Person to Call About this Document**  
Lisa Larson

**Telephone No.**  
410-468-2007

**Email Address**

lisa.larson@maryland.gov

**6. Check applicable items:**

New Regulations

Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: 06/05/2016.

Repeal of Existing Regulations

Recodification

Incorporation by Reference of Documents Requiring DSD Approval

Reproposal of Substantively Different Text:

: Md. R

(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

**7. Is there emergency text which is identical to this proposal:**

Yes  No

**8. Incorporation by Reference**

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

**9. Public Body - Open Meeting**

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

**10. Children's Environmental Health and Protection**

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

**11. Certificate of Authorized Officer**

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Phoebe Pappas, Assistant Attorney General, (telephone #410-468-2032) on 07/08/16. A written copy of the approval is on file at this agency.

**Name of Authorized Officer**

Alfred W. Redmer, Jr.

**Title**

Insurance Commissioner

**Telephone No.**

410-468-2090

**Date**

07/11/16

## **Title 31**

### **MARYLAND INSURANCE ADMINISTRATION**

#### **Subtitle 09 LIFE INSURANCE AND ANNUITIES**

##### **31.09.07 Charitable Gift Annuities**

#### **Subtitle 13 CREDIT LIFE AND CREDIT HEALTH INSURANCE**

##### **31.13.01 Standards for Credit Life and Credit Health Insurance**

#### **Subtitle 13 CREDIT LIFE AND CREDIT HEALTH INSURANCE**

##### **31.13.02 Credit Life and Credit Health Reinsurance**

#### **Subtitle 13 CREDIT LIFE AND CREDIT HEALTH INSURANCE**

##### **31.13.03 Standards for Credit Involuntary Unemployment Benefit Insurance**

Authority: See attached regulations

### **Notice of Proposed Action**

□

The Insurance Commissioner proposes to amend Regulation .03 under COMAR 31.09.07 Charitable Gift Annuities, amend Regulations .04, .21 under COMAR 31.13.01 Standards for Credit Life and Credit Health Insurance, amend Regulations .02, .03, and .04 under COMAR 31.13.02 Credit Life and Credit Health Reinsurance, and amend Regulations .04 and .16 under COMAR 31.13.03 Standards for Credit Involuntary Unemployment Benefit Insurance.

### **Statement of Purpose**

The purpose of this action is to amend Regulation .03 or COMAR 31.09.07, regulations .04, .21 of COMAR 31.13.01, regulations .02, .03, .04 of COMAR 31.13.02, regulations .04, .16 of COMAR 31.13.03 with a technical amendment to change the term "accepted reinsurer" to "accredited reinsurer" consistent with changes made by Chapter 321 (Maryland Laws of 2013) to Title 5, Subtitle 9 of the Insurance Article regarding reinsurers.

### **Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

### **Estimate of Economic Impact**

The proposed action has no economic impact.

### **Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses.

### **Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

### **Opportunity for Public Comment**

Comments may be sent to Lisa Larson, Assistant Director of Regulatory Affairs, Maryland Insurance Administration, 200 St. Paul Place, Ste. 2700, Baltimore, MD 21202, or call 410-468-2007, or email to [insuranceregreview.mia@maryland.gov](mailto:insuranceregreview.mia@maryland.gov), or fax to 410-468-2020. Comments will be accepted through September 19, 2016. A public hearing has not been scheduled.

### **Economic Impact Statement Part C**

A. Fiscal Year in which regulations will become effective: FY 17

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

No

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

No funds are needed to implement the proposed amendments to these regulations.

E. If these regulations have no economic impact under Part A, indicate reason briefly:

No funds are needed to implement the proposed amendments to these regulations as they are technical changes only.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

No funds are needed to implement the proposed amendments to these regulations as they are technical changes only.

G. Small Business Worksheet:

Attached Document:

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## **Title 31 MARYLAND INSURANCE ADMINISTRATION**

### **Subtitle 09 LIFE INSURANCE AND ANNUITIES**

## Chapter 07 Charitable Gift Annuities

Authority: Insurance Article, §§2-109 and 16-114, Annotated Code of Maryland

### .03 Required Reserves.

- A. – B. (text unchanged)
- C. In determining the appropriate reserves, a deduction shall be made for all or any portion of an annuity risk which is reinsured by an authorized insurer or [accepted] *accredited* reinsurer.
- D. – E. (text unchanged)

# Title 31 MARYLAND INSURANCE ADMINISTRATION

## Subtitle 13 CREDIT LIFE AND CREDIT HEALTH INSURANCE

### Chapter 01 Standards for Credit Life and Credit Health Insurance

Authority: Insurance Article, §§2-109, 13-110, 13-111, and 13-112; Commercial Law Article, Title 12, Subtitle 3; Annotated Code of Maryland

### .04 Definitions.

- A. (text unchanged)
- B. Terms Defined.
  - (1) – (5) (text unchanged)
  - (6) (text unchanged)
    - (a) – (m) (text unchanged)
    - (n) Dividends, profits, capital gains, commissions, or other benefits which may be reasonably anticipated under reinsurance agreements with any unauthorized reinsurer affiliated with or controlled by a licensed agent or broker, a creditor, or an affiliate, corporate parent, subsidiary, associate, director, officer, active or retired employee, or other representative of the creditor or the licensed insurance agent. An unauthorized reinsurer does not include any insurer authorized to do business in this State or any insurer qualified under Insurance Article, §13-116, Annotated Code of Maryland, or any insurer meeting the qualifications of a nonadmitted [accepted] *accredited* reinsurer.
  - (o) – (v) (text unchanged)
  - (7) – (20) (text unchanged)

### .21 Reinsurance Treaties.

A. To permit the Commissioner to enforce the provisions of Regulation .20 of this chapter with respect to that portion of commission defined by Regulation .04B(6)(n) of this chapter and to permit the Commissioner to ascertain that there are no violations of Insurance Article, Title 27, Annotated Code of Maryland, and other applicable sections of Insurance Article, Annotated Code of Maryland, a contract of reinsurance of credit life or credit health insurance on loans originating in Maryland may not be entered into, or continued, after the effective date of these regulations unless approved by the Commissioner and unless the reinsurer is licensed in Maryland, or qualifies under Insurance Article, §13-116, Annotated Code of Maryland, or is an [accepted] *accredited* reinsurer.

- B. – D. (text unchanged)

# Title 31 MARYLAND INSURANCE ADMINISTRATION

## Subtitle 13 CREDIT LIFE AND CREDIT HEALTH INSURANCE

## Chapter 02 Credit Life and Credit Health Reinsurance

Authority: Insurance Article, §§2-109, 4-105, 4-116, and 13-116, Annotated Code of Maryland

### .02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) – (3) (text unchanged)

(4) "Insurer", unless the context indicates otherwise, means an insurer not licensed to do life and health insurance business in Maryland and not an [accepted] *accredited* reinsurer but qualified or proposing to qualify as a fronting reinsurer under Insurance Article, §13-116, Annotated Code of Maryland.

### .03 Deposit.

A. – H. (text unchanged)

I. An authorized insurer desiring to make a fronting agreement shall first ascertain that the reinsurer is appropriately licensed in Maryland, or is an [accepted] *accredited* reinsurer, or is qualified as a fronting reinsurer under Insurance Article, §13-116, Annotated Code of Maryland. An authorized insurer shall be subject to the penalties provided in Insurance Article, §4-113, Annotated Code of Maryland, as well as any other applicable penalties if:

(1) The authorized insurer makes a fronting agreement with a reinsurer which is not licensed, or is not an [accepted] *accredited* reinsurer, or has not qualified in accordance with Insurance Article, §13-116, Annotated Code of Maryland; or

(2) (text unchanged)

J. (text unchanged)

### .04 Custodian Agreement.

A. – E. (text unchanged)

Agency Note: A specimen acceptable form of custodian agreement is attached to these regulations as Exhibit A. Appropriate changes in this form will be required if the deposit is made on behalf of the insurer by another person.

## Exhibit A

This agreement is made and executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the Insurance Commissioner of the State of Maryland (Commissioner), the XYZ Life Insurance Company, a Minnesota Corporation (Insurer), and the ABC Bank, a Maryland Corporation (Custodian).

In this agreement the term "securities" means only any one of, or a combination of:

(a) Cash,

(b) General obligations of, or obligations guaranteed by, the federal government,

(c) General obligations of, or obligations guaranteed by this State or any of its political subdivisions, or

(d) General obligations of the District of Columbia or of any state of the United States, provided in any case that the obligations are not in default as to payment of principal or interest at the time of deposit with the Commissioner.

WHEREAS the reinsurance of credit life and credit health insurance written in Maryland is prohibited unless the reinsurer is an authorized insurer or is an [accepted] *accredited* reinsurer, or unless the reinsurer makes a deposit of securities with the Commissioner in accordance with Insurance Article, §13-116, Annotated Code of Maryland,

NOW, THEREFORE, in consideration of these covenants, the parties agree as follows:

1. The Insurer agrees to pledge securities and deliver them to the custodian as directed by the Commissioner in accordance with the provisions of Insurance Article, Annotated Code of Maryland.

The total value of the securities shall be not less than required by Insurance Article, §13-116, Annotated Code of Maryland, and by regulations under COMAR 31.13.02.

The insurer has assigned, transferred, and delivered to the Commissioner, and the Commissioner has received securities which have been accepted and approved by the Commissioner to the aggregate amount in value prescribed by the Commissioner, which are to be held by the custodian for the Commissioner in accordance with Insurance Article, Annotated Code of Maryland, the securities being as follows:

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2. The custodian agrees, at the expense of the insurer, to hold all of the securities received by it from the insurer in accordance with the terms of this agreement. The custodian also agrees not later than January 31 in each calendar year to give a proper accounting of the securities as of the preceding December 31 to the Commissioner and to the insurer, and to give an accounting to the Commissioner and to the insurer at other times at the Commissioner's request within 15 days of the request. The accounting shall include a listing of the securities on deposit, showing the par value and the market value of each, together with a statement as to whether any are in default.
  3. The custodian assumes no responsibility for the character of the securities held by it under this agreement nor for the sufficiency of the value of the securities.
  4. The insurer shall have the right, from time to time, to deliver to the custodian additional securities as prescribed by Insurance Article, §13-116, Annotated Code of Maryland, and by regulations under COMAR 31.13.02 to be held by the custodian, subject to the terms of this agreement and to substitute other securities in the place and stead of the securities then held by the custodian, provided that every addition, substitution, or withdrawal shall first be approved in writing by the Commissioner.
  5. The insurer shall be entitled to all interest which may become due and payable on the securities, and the custodian shall permit the insurer to remove and withdraw the interest unless otherwise directed by the Commissioner.
  6. If the insurer becomes insolvent, or, if for any reason the Commissioner determines that the rights of policyholders, certificate holders, authorized insurers, or creditors may be in jeopardy, the Commissioner may issue a written order briefly stating his determination and directing the custodian immediately to deliver to the Commissioner the securities then held by the custodian under the terms of this agreement. This order shall be effective upon delivery to the custodian. A copy of the order shall also be delivered to the insurer. Upon receipt of the order, the custodian shall promptly deliver to the Commissioner the securities then held by the custodian under the terms of this agreement.
  7. Instead of requesting that the securities be delivered to him, the Commissioner may direct the custodian to sell, assign and deliver all or any portion of the securities at any public or private sale within or without the State of Maryland. If the custodian is directed by the Commissioner to sell securities, the custodian is authorized to deduct from the proceeds of the sale the amount necessary for the payment of costs and expenses incident to the sale. The custodian shall promptly pay the balance of the proceeds of the sale to the Commissioner.
  8. This agreement may be terminated by either the insurer or the custodian 60 days following delivery of written notice of intention to terminate to each of the other parties, including the Commissioner, provided, however, that the custodian may not release or return to the insurer any of the securities held by it under this agreement without first having received written authority from the Commissioner to do so.
  9. The Commissioner may at any time terminate this agreement by written notice to each of the other parties. Upon receipt of the notice, the custodian shall immediately deliver all securities held under this agreement to the Commissioner.

IN WITNESS WHEREOF, the Insurance Commissioner of the State of Maryland has affixed his hand and seal, and XYZ Life Insurance Company and ABC Bank have caused this agreement to be executed on their behalf by their president or vice president and have caused their corporate seals to be affixed, and duly attested, all as of the day and year first above written.

**ATTEST:**

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**Secretary**

**Corporate Seal**

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**Insurer**

**By:** \_\_\_\_\_

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**President-Vice President**

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Secretary

Corporate Seal

(SEAL)

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Custodian

By: \_\_\_\_\_

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President-Vice President

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Insurance Commissioner  
State of Maryland

## **Title 31 MARYLAND INSURANCE ADMINISTRATION**

### **Subtitle 13 CREDIT LIFE, CREDIT HEALTH, AND CREDIT INVOLUNTARY UNEMPLOYMENT BENEFIT INSURANCE**

#### **Chapter 03 Standards for Credit Involuntary Unemployment Benefit Insurance**

Authority: Insurance Article, §2-109 and Title 13, Annotated Code of Maryland

##### **.04 Definitions.**

- A. (text unchanged)
- B. Terms Defined.
  - (1) – (27) (text unchanged)
  - (28) Unauthorized Reinsurer.
    - (a) "Unauthorized reinsurer" means any insurer meeting the qualifications of a nonadmitted [accepted] *accredited* reinsurer.
    - (b) (text unchanged)

## **Title 31 MARYLAND INSURANCE ADMINISTRATION**

### **Subtitle 13 CREDIT LIFE, CREDIT HEALTH, AND CREDIT INVOLUNTARY UNEMPLOYMENT BENEFIT INSURANCE**

#### **Chapter 03 Standards for Credit Involuntary Unemployment Benefit Insurance**

Authority: Insurance Article, §2-109 and Title 13, Annotated Code of Maryland

##### **.16 Reinsurance Treaties.**

- A. To permit the Commissioner to enforce the provisions of Regulation .15 of this chapter with respect to that portion of commission defined by Regulation .04B(7)(a)(xiv) of this chapter and to permit the Commissioner to ascertain that there are no violations of Insurance Article, Title 27, Annotated Code of Maryland, and other applicable



sections of Insurance Article, Annotated Code of Maryland, a contract of reinsurance of credit involuntary unemployment benefit insurance on loans originating in Maryland may not be entered into, or continued, after the effective date of this chapter unless approved by the Commissioner and unless the reinsurer is licensed in Maryland, qualifies under Insurance Article, §13-116, Annotated Code of Maryland, or is an [accepted] *accredited* reinsurer.

B. – D. (text unchanged)