

Chapter 321

(Senate Bill 777)

AN ACT concerning

Insurance – Ceding Insurers and Reinsurance

FOR the purpose of requiring that a domestic ceding insurer be allowed credit for reinsurance in certain manners under certain circumstances; providing for certain credit for reinsurance to be allowed under certain circumstances depending on the licensure or authorization status and accreditation status of the assuming insurer; establishing certain requirements and procedures for an assuming reinsurer to be accredited by the Maryland Insurance Commissioner; providing that an assuming reinsurer is deemed to be qualified under certain circumstances; requiring an assuming reinsurer to report certain information each year to the Commissioner for certain purposes and to submit to examination in a certain manner; prohibiting credit for reinsurance to be granted unless a certain trust has been approved by a certain official; establishing certain requirements for certain trusts; providing for the duration of a certain trust; requiring the trustee of a certain trust to report and certify certain information to the Commissioner; establishing certain requirements for certain trusts used by certain insurers; providing for the certification of certain insurers as reinsurers in this State in accordance with certain requirements and procedures; requiring the Commissioner to maintain a certain list of qualified jurisdictions in which an assuming insurer may be domiciled and considered for certification; providing certain criteria for the Commissioner to consider in recognizing certain qualified jurisdictions; requiring the Commissioner to consider a certain list of jurisdictions published through a certain association for certain purposes; requiring the Commissioner to assign certain ratings to certain certified reinsurers in a certain manner and to publish a list of the reinsurers and their ratings; authorizing the Commissioner to ~~defer~~ to use information on the certification and rating assigned by certain jurisdictions under certain circumstances for certain purposes; providing for the maintenance of certification in an inactive status under certain circumstances; requiring a certified reinsurer to secure certain obligations in certain manners and forms and at certain levels; requiring the Commissioner to reduce certain allowable credit under certain circumstances; authorizing the Commissioner to suspend or revoke the accreditation or certification of a reinsurer in a certain manner under certain circumstances; limiting the qualification for credit of certain reinsurance contracts under certain circumstances; prohibiting certain credit if the assuming insurer is not licensed, accredited, or certified except under certain circumstances and in a certain manner; providing for the construction of a certain provision of this Act; providing for certain assets or reductions from liability for certain reinsurance in a certain manner under

certain circumstances; requiring certain security to be in certain forms and held in certain places and certain institutions; requiring a ceding insurer to take certain steps to manage certain reinsurance recoverables and to notify the Commissioner in certain manners; requiring a ceding insurer to diversify its ~~portfolio~~ reinsurance program and notify the Commissioner in certain manners; authorizing the Commissioner to adopt certain regulations; repealing certain obsolete provisions; defining certain terms; providing that certain laws of the State inconsistent with this Act are superseded to the extent of the inconsistency; providing that credit for reinsurance ceded to a reinsurer under this Act may be allowed only for certain contracts entered into or renewed on or after a certain date; providing that existing obligations or contract rights may not be impaired by this Act; and generally relating to insurance and reinsurance.

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

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

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

BY repealing
 Article – Insurance
 Section ~~5–903, 5–904, and 5–905~~
 Annotated Code of Maryland
 (2011 Replacement Volume and 2012 Supplement)

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

Article – Insurance

5–901.

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

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

(C) "PRIMARY CERTIFYING STATE" MEANS A STATE OTHER THAN MARYLAND:

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

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

(D) "QUALIFIED JURISDICTION" MEANS A JURISDICTION THAT THE COMMISSIONER DETERMINES MEETS THE REQUIREMENTS OF § 5-909 OF THIS SUBTITLE.

~~(E)~~ (E) "QUALIFIED UNITED STATES FINANCIAL INSTITUTION" MEANS:

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

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

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

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

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

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

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

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

(G) “TRUSTEED SURPLUS” MEANS FUNDS HELD IN A TRUST ACCOUNT IN EXCESS OF THE REINSURER’S LIABILITIES ATTRIBUTABLE TO REINSURANCE CEDED TO THE REINSURER BY UNITED STATES CEDING INSURERS IN ACCORDANCE WITH THIS SUBTITLE.

5-902.

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

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

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

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

~~[5-903. 5-904.~~

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

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

~~5-903.~~

~~(A)~~ (B) (1) CREDIT SHALL BE ALLOWED UNDER SUBSECTION ~~(B)~~, (C), (D), OR ~~(D)~~ (E) OF THIS SECTION WITH RESPECT TO CESSIONS OF THOSE

KINDS OR CLASSES OF BUSINESS THAT THE ASSUMING INSURER IS LICENSED OR OTHERWISE ALLOWED TO WRITE OR ASSUME IN ITS STATE OF DOMICILE OR, IN THE CASE OF A UNITED STATES BRANCH OF AN ALIEN ASSUMING INSURER, IN THE STATE THROUGH WHICH IT IS ENTERED AND LICENSED TO TRANSACT INSURANCE OR REINSURANCE.

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

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

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

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

~~(E)~~ (F) CREDIT SHALL BE ALLOWED WHEN THE REINSURANCE IS CEDED TO AN ASSUMING INSURER THAT HAS BEEN CERTIFIED BY THE COMMISSIONER AS A REINSURER IN THIS STATE IN ACCORDANCE WITH §§ 5-908 AND 5-909 OF THIS SUBTITLE AND SECURES ITS OBLIGATIONS IN ACCORDANCE WITH THE REQUIREMENTS OF ~~§ 5-909~~ § 5-911 OF THIS SUBTITLE.

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

~~§ 5-904.~~ 5-905.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) DEMONSTRATE TO THE SATISFACTION OF THE COMMISSIONER THAT THE REINSURER HAS ADEQUATE FINANCIAL CAPACITY TO

MEET ITS REINSURANCE OBLIGATIONS AND IS OTHERWISE QUALIFIED TO ASSUME REINSURANCE FROM DOMESTIC INSURERS.

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

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

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

[5-905.

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

- (1) an annual statement on convention form;
- (2) a certificate evidencing a deposit; and
- (3) a certificate of compliance.]

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

(A) TO ENABLE THE COMMISSIONER TO DETERMINE THE SUFFICIENCY OF THE TRUST FUND PROVIDED FOR IN ~~§ 5-903(D)~~ § 5-904(E) OF THIS SUBTITLE, THE ASSUMING INSURER SHALL REPORT EACH YEAR TO THE COMMISSIONER INFORMATION SUBSTANTIALLY THE SAME AS THAT REQUIRED TO BE REPORTED ON THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS ANNUAL STATEMENT FORM BY ~~LICENSED~~ AUTHORIZED INSURERS.

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(1)~~ (2) ~~THE~~ THE TRUST FUND SHALL CONSIST OF FUNDS IN TRUST IN AN AMOUNT NOT LESS THAN THE ASSUMING INSURER'S LIABILITIES ATTRIBUTABLE TO REINSURANCE CEDED BY UNITED STATES CEDING INSURERS, ~~AND~~.

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

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

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

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

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

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

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

~~1~~ (2) ~~FOR~~ FOR REINSURANCE CEDED UNDER REINSURANCE ~~AGREEMENTS~~ CONTRACTS WITH AN INCEPTION, AMENDMENT, OR RENEWAL DATE ON OR AFTER JANUARY 1, 1993, THE TRUST SHALL CONSIST OF A TRUSTEED ACCOUNT IN AN AMOUNT NOT LESS THAN THE RESPECTIVE UNDERWRITERS' SEVERAL LIABILITIES ATTRIBUTABLE TO BUSINESS CEDED BY

UNITED STATES DOMICILED CEDING INSURERS TO ANY UNDERWRITER OF THE GROUP;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~5-906. 5-908.~~

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

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

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

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

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

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

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

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

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

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

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

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

(4) THE INCORPORATED MEMBERS OF THE ~~ASSOCIATION~~ GROUP SHALL BE SUBJECT TO THE SAME LEVEL OF REGULATION AND SOLVENCY CONTROL BY THE ~~ASSOCIATION'S~~ GROUP'S DOMICILIARY REGULATOR AS ARE THE UNINCORPORATED MEMBERS.

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

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

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

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

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

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

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

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

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

(4) THE COMMISSIONER MAY NOT RECOGNIZE A JURISDICTION AS A QUALIFIED JURISDICTION ~~A JURISDICTION THAT~~ UNLESS THE COMMISSIONER DETERMINES DOES HAS DETERMINED THAT THE JURISDICTION NOT ADEQUATELY AND PROMPTLY ENFORCE ENFORCES FINAL UNITED STATES JUDGMENTS AND ARBITRATION AWARDS.

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

(B) (1) ~~THERE IS A~~ THE COMMISSIONER SHALL CONSIDER THE LIST OF QUALIFIED JURISDICTIONS PUBLISHED THROUGH THE NATIONAL

ASSOCIATION OF INSURANCE COMMISSIONERS COMMITTEE PROCESS IN DETERMINING THE QUALIFIED JURISDICTIONS IN THIS STATE.

(2) ~~THE~~ IN DETERMINING WHETHER A JURISDICTION IS A QUALIFIED JURISDICTION, THE COMMISSIONER SHALL CONSIDER THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS LIST ~~IN DETERMINING QUALIFIED JURISDICTIONS:~~

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

(II) WHENEVER THE LIST IS AMENDED.

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

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

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

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

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

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

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

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

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

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

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

(3) BOTH.

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

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

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

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

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

(B) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IN ORDER FOR A DOMESTIC CEDING INSURER TO QUALIFY FOR FULL FINANCIAL STATEMENT CREDIT FOR REINSURANCE CEDED TO A CERTIFIED REINSURER, THE CERTIFIED REINSURER SHALL MAINTAIN SECURITY IN A FORM THE COMMISSIONER

CONSIDERS ACCEPTABLE AND CONSISTENT WITH ~~THE PROVISIONS OF § 5-912~~ § 5-914 OF THIS SUBTITLE, OR IN A MULTIBENEFICIARY TRUST IN ACCORDANCE WITH ~~§ 5-905~~ § 5-907 OF THIS SUBTITLE.

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

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

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

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

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

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

(F) (1) FOR PURPOSES OF THIS SECTION, A CERTIFIED REINSURER WHOSE CERTIFICATION THE COMMISSIONER HAS BEEN REVOKED, SUSPENDED, ~~VOLUNTARILY SURRENDERED,~~ OR PLACED ON INACTIVE STATUS, OR HAS BEEN

VOLUNTARILY SURRENDERED, FOR ANY REASON SHALL BE TREATED AS A CERTIFIED REINSURER REQUIRED TO SECURE ~~100%~~ ALL OF ITS OBLIGATIONS.

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

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

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

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

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

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

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

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

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

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

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

~~5-911. 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 ~~§ 5-903(D)~~ § 5-904(E) OF THIS SUBTITLE MAY NOT BE ALLOWED UNLESS THE ASSUMING INSURER AGREES IN THE REINSURANCE ~~AGREEMENTS~~ CONTRACTS:

(1) THAT IN THE EVENT OF THE FAILURE OF THE ASSUMING INSURER TO PERFORM ITS OBLIGATIONS UNDER THE TERMS OF THE REINSURANCE ~~AGREEMENT~~ CONTRACT, THE ASSUMING INSURER, AT THE REQUEST OF THE ~~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 ~~AGREEMENT~~ CONTRACT TO ARBITRATE THEIR DISPUTES, IF THIS OBLIGATION IS CREATED IN THE REINSURANCE ~~AGREEMENT~~ CONTRACT.

(C) IF THE ASSUMING INSURER DOES NOT MEET THE REQUIREMENTS OF ~~§ 5-903(D)~~ § 5-904(C) OR ~~(E)~~ (D) OF THIS SUBTITLE, THE CREDIT ALLOWED BY ~~§ 5-903(D)~~ § 5-904(E) AND ~~(E)~~ (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 ~~§ 5-905(J)~~ § 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 ~~COMMISSIONER~~ 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 ~~COMMISSIONER~~ 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 ~~COMMISSIONER~~ 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 ~~COMMISSIONER~~ 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 ~~COMMISSIONER~~ 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.

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

(A) AN ASSET OR A REDUCTION FROM LIABILITY FOR THE REINSURANCE CEDED BY A DOMESTIC INSURER TO AN ASSUMING INSURER NOT MEETING THE REQUIREMENTS OF ~~§ 9-503~~ § 5-904 OF THIS SUBTITLE SHALL BE ALLOWED IN AN AMOUNT NOT EXCEEDING THE LIABILITIES CARRIED BY THE CEDING INSURER.

(B) THE REDUCTION SHALL BE IN THE AMOUNT OF FUNDS HELD BY OR ON BEHALF OF THE CEDING INSURER, INCLUDING FUNDS HELD IN TRUST FOR THE CEDING INSURER, UNDER A REINSURANCE CONTRACT WITH THE ASSUMING

INSURER AS SECURITY FOR THE PAYMENT OF OBLIGATIONS UNDER THE CONTRACT, IF THE SECURITY IS HELD:

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

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

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

(1) CASH;

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

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

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

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

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

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

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

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

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

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

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

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

THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

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

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

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

Approved by the Governor, May 2, 2013.