

2013 -- S 0667 SUBSTITUTE A

=====  
LC01424/SUB A  
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

—————  
A N A C T

RELATING TO INSURANCE

Introduced By: Senators Picard, and Walaska

Date Introduced: March 06, 2013

Referred To: Senate Corporations

(Business Regulation)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 27-1.1-1 of the General Laws in Chapter 27-1.1 entitled "Credit for  
2 Reinsurance Act" is hereby amended to read as follows:

3 **27-1.1-1. Credit allowed a domestic ceding insurer.** -- (a) Credit for reinsurance shall  
4 be allowed a domestic ceding insurer as either an asset or a ~~deduction~~ reduction from liability on  
5 account of reinsurance ceded only when the reinsurer meets the requirements of ~~subsection~~  
6 subsections (b), (c), (d), (e), ~~or~~ (f). ~~If meeting the requirements of subsection (d) or (e), the~~  
7 ~~requirements of~~ or (g) of this section. Credit shall be allowed under subsections (b), (c) or (d) of  
8 this section only as respects cessions of those kinds or classes of business which the assuming  
9 insurer is licensed or otherwise permitted to write or assume in its state of domicile or, in the case  
10 of a U.S. branch of an alien assuming insurer, in the state through which it is entered and licensed  
11 to transact insurance or reinsurance. Credit shall be allowed under subsections (d) or (e) of this  
12 section only if the applicable requirements of subsection ~~(g)(h) of this section must also be met~~  
13 have been satisfied.

14 (b) Credit shall be allowed when the reinsurance is ceded to an assuming insurer ~~which~~  
15 that is licensed to transact insurance or reinsurance in this state.

16 (c)(+) Credit shall be allowed when the reinsurance is ceded to an assuming insurer  
17 ~~which~~ that is accredited by the commissioner as a reinsurer in this state. In order to be eligible for  
18 an ~~An accredited~~ accreditation a reinsurer ~~is one which~~ must:

19 ~~(+)(1) Files~~ File with the commissioner evidence of its submission to this state's

1 jurisdiction;

2 ~~(ii)(2) Submits~~ Submit to this state's authority to examine its books and records;

3 ~~(iii)(3) Is Be~~ licensed to transact insurance or reinsurance in at least one state, or in the  
4 case of a United States branch of an alien assuming insurer ~~is be~~ entered through and licensed to  
5 transact insurance or reinsurance in at least one state; ~~and~~

6 ~~(iv)(4) Annually files~~ file with the commissioner a copy of its annual statement filed  
7 with the insurance department of its state of domicile and a copy of its most recent audited  
8 financial statement, and ~~either:~~

9 (5) Demonstrate to the satisfaction of the commissioner that it has adequate financial  
10 capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from  
11 domestic insurers. An assuming insurer is deemed to meet this requirement as of the time of its  
12 application if it maintains a surplus as regards policyholders in an amount not less than twenty  
13 million dollars (\$20,000,000), and its accreditation has not been denied by the commissioner  
14 within ninety (90) days after submission of its application.

15 ~~(A) Maintains a surplus regarding policyholders in an amount which is not less than~~  
16 ~~twenty million dollars (\$20,000,000) and whose accreditation has not been denied by the~~  
17 ~~commissioner within ninety (90) days of its submission; or~~

18 ~~(B) Maintains a surplus regarding policyholders in an amount less than twenty million~~  
19 ~~dollars (\$20,000,000) and whose accreditation has been approved by the commissioner;~~

20 ~~(2) No credit shall be allowed a domestic ceding insurer if the assuming insurers'~~  
21 ~~accreditation has been revoked by the commissioner after notice and hearing.~~

22 (d)(1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer  
23 ~~which that~~ is domiciled ~~and licensed~~ in, or in the case of a United States branch of an alien  
24 assuming insurer is entered through, a state ~~which that~~ employs standards regarding credit for  
25 reinsurance substantially similar to those applicable under this statute, and the assuming insurer  
26 or U.S. branch of an alien assuming insurer:

27 (i) Maintains a surplus regarding policyholders in an amount not less than twenty million  
28 dollars (\$20,000,000); and

29 (ii) Submits to the authority of this state to examine its books and records; .

30 (2) Provided, that the requirement of subsection (d)(1)(i) does not apply to reinsurance  
31 ceded and assumed pursuant to pooling arrangements among insurers in the same holding  
32 company system.

33 (e)(1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer  
34 ~~which that~~ maintains a trust fund in a qualified United States financial institution, as defined in

1 section 27-1.1-3(b), for the payment of the valid claims of its United States ~~policyholders and~~  
2 ceding insurers, ~~and~~ their assigns and successors in interest. To enable the commissioner to  
3 determine the sufficiency of the trust fund, the ~~The~~ assuming insurer shall report annually to the  
4 commissioner information substantially the same as that required to be reported on the National  
5 Association of Insurance Commissioners annual statement form by licensed insurers. ~~to enable~~  
6 ~~the commissioner to determine the sufficiency of the trust fund. In the case of a single assuming~~  
7 ~~insurer, the trust shall consist of a trusted account representative of the assuming insurer's~~  
8 ~~liabilities attributable to business written in the United States and, in addition, the assuming~~  
9 ~~insurer shall maintain a trusted surplus of not less than twenty million dollars (\$20,000,000). In~~  
10 ~~the case of a group including incorporated and/or individual unincorporated underwriters, the~~  
11 ~~trust shall consist of a trusted account representative of the group's liabilities attributable to~~  
12 ~~business written in the United States and, in addition, the group shall maintain a trusted surplus of~~  
13 ~~which one hundred million dollars (\$100,000,000) shall be held jointly for the benefit of United~~  
14 ~~States ceding insurers of any member of the group; the incorporated members of the group shall~~  
15 ~~not be engaged in any business other than underwriting as a member of the group and shall be~~  
16 ~~subject to the same level of solvency regulation and control by the group's domiciliary regulator~~  
17 ~~as are the unincorporated members; and the group shall make available to the commissioner an~~  
18 ~~annual certification of the solvency of each underwriter by the group's domiciliary regulator and~~  
19 ~~its independent public accountants; The assuming insurer shall submit to examination of its books~~  
20 and records by the commissioner, and bear the expense of examination.

21 (2)(i) Credit for reinsurance shall not be granted under this subsection unless the form of  
22 the trust and any amendments to the trust have been approved by:

23 (A) The commissioner of the state where the trust is domiciled; or

24 (B) The commissioner of another state who, pursuant to the terms of the trust instrument,  
25 has accepted principal regulatory oversight of the trust.

26 (ii) The form of the trust and any trust amendments shall also be filed with the  
27 commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled.  
28 The trust instrument shall provide that contested claims shall be valid and enforceable upon the  
29 final order of any court of competent jurisdiction in the United States. The trust shall vest legal  
30 title to its assets in its trustees for the benefit of the assuming insurer's U.S. ceding insurers, their  
31 assigns and successors in interest. The trust and the assuming insurer shall be subject to  
32 examination as determined by the commissioner.

33 (iii) The trust shall remain in effect for as long as the assuming insurer has outstanding  
34 obligations due under the reinsurance agreements subject to the trust. No later than February 28

1 of each year the trustee of the trust shall report to the commissioner in writing the balance of the  
2 trust and listing the trust's investments at the preceding year end and shall certify the date of  
3 termination of the trust, if so planned, or certify that the trust will not expire prior to the following  
4 December 31.

5 (3) The following requirements apply to the following categories of assuming insurer:

6 (i) The trust fund for a single assuming insurer shall consist of funds in trust in an amount  
7 not less than the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding  
8 insurers, and, in addition, the assuming insurer shall maintain a trustee surplus of not less than  
9 twenty million dollars (\$20,000,000), except as provided in paragraph(3)(ii) below.

10 (ii) At any time after the assuming insurer has permanently discontinued underwriting  
11 new business secured by the trust for at least three (3) full years, the commissioner with principal  
12 regulatory oversight of the trust may authorize a reduction in the required trustee surplus, but  
13 only after a finding, based on an assessment of the risk, that the new required surplus level is  
14 adequate for the protection of U.S. ceding insurers, policyholders and claimants in light of  
15 reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial  
16 review, including an independent analysis of reserves and cash flows, and shall consider all  
17 material risk factors, including when applicable the lines of business involved, the stability of the  
18 incurred loss estimates and the effect of the surplus requirements on the assuming insurer's  
19 liquidity or solvency. The minimum required trustee surplus may not be reduced to an amount  
20 less than thirty percent (30%) of the assuming insurer's liabilities attributable to reinsurance ceded  
21 by U.S. ceding insurers covered by the trust.

22 (iii)(A) In the case of a group including incorporated and individual unincorporated  
23 underwriters:

24 (B) For reinsurance ceded under reinsurance agreements with an inception, amendment  
25 or renewal date on or after January 1, 1993, the trust shall consist of a trustee account in an  
26 amount not less than the respective underwriters' several liabilities attributable to business ceded  
27 by U.S. domiciled ceding insurers to any underwriter of the group;

28 (C) For reinsurance ceded under reinsurance agreements with an inception date on or  
29 before December 31, 1992, and not amended or renewed after that date, notwithstanding the  
30 other provisions of this chapter, the trust shall consist of a trustee account in an amount not less  
31 than the respective underwriters' several insurance and reinsurance liabilities attributable to  
32 business written in the United States;

33 (D) In addition to these trusts, the group shall maintain in trust a trustee surplus of  
34 which one hundred million dollars (\$100,000,000) shall be held jointly for the benefit of the U.S.

1 domiciled ceding insurers of any member of the group for all years of account; and

2 (E) The incorporated members of the group shall not be engaged in any business other  
3 than underwriting as a member of the group and shall be subject to the same level of regulation  
4 and solvency control by the group's domiciliary regulator as are the unincorporated members.

5 (I) Within ninety (90) days after its financial statements are due to be filed with the  
6 group's domiciliary regulator, the group shall provide to the commissioner an annual certification  
7 by the group's domiciliary regulator of the solvency of each underwriter member; or if a  
8 certification is unavailable, financial statements, prepared by independent public accountants, of  
9 each underwriter member of the group.

10 ~~(2)(iv)~~ In the case of a group of incorporated ~~insurers~~ underwriters under common  
11 administration ~~which the group shall:~~

12 ~~(i) complies with the filing requirements contained in subsection (e)(1), (ii) has~~

13 (A) Have continuously transacted an insurance business outside the United States for at  
14 least three (3) years immediately prior to making application for accreditation, ~~(iii) submits to this~~  
15 ~~state's authority to examine its books and records and bears the expenses of the examination, and~~  
16 ~~(iv)~~

17 (B) Maintain an aggregate policyholders surplus of ten billion dollars (\$10,000,000,000);

18 (C) Maintain a ~~the~~ trust fund shall be in an amount ~~equal to~~ not less than the group's  
19 several liabilities attributable to business ceded by United States domiciled ceding insurers to any  
20 member of the group pursuant to reinsurance contracts issued in the name of the group; ~~plus the~~  
21 ~~group shall~~

22 (D) In addition, maintain a joint trusted surplus of which one hundred million dollars  
23 (\$100,000,000) shall be held jointly for the benefit of U.S. domiciled ceding insurers of any  
24 member of the group as additional security for ~~any~~ these liabilities, and

25 (E) Within ninety (90) days after its financial statements are due to be filed with the  
26 group's domiciliary regulator, ~~each member of the group shall~~ make available to the  
27 commissioner an annual certification of ~~the~~ each underwriter member's solvency by the member's  
28 domiciliary regulator, and financial statements of each underwriter member of the group prepared  
29 by its independent public accountant;

30 ~~(3) The trust shall be established in a form approved by the commissioner. The trust~~  
31 ~~instrument shall provide that contested claims shall be valid and enforceable upon the final order~~  
32 ~~of any court of competent jurisdiction in the United States. The trust shall vest legal title to its~~  
33 ~~assets in the trustees of the trust for its United States policyholders and ceding insurers, and their~~  
34 ~~assigns and successors in interest. The trust and the assuming insurer shall be subject to~~

1 ~~examination as determined by the commissioner. The trust described in this subsection must~~  
2 ~~remain in effect for as long as the assuming insurer shall have outstanding obligations due under~~  
3 ~~the reinsurance agreements subject to the trust;~~

4 ~~(4) No later than February 28 of each year the trustees of the trust shall report to the~~  
5 ~~commissioner in writing setting forth the balance of the trust and listing the trust's investments at~~  
6 ~~the preceding year end and shall certify the date of termination of the trust, if this is planned, or~~  
7 ~~certify that the trust shall not expire prior to the next following December 31;~~

8 ~~(f) (1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not~~  
9 ~~meeting the requirements of subsections (b), (c), (d), or (e), but only with respect to the insurance~~  
10 ~~of risks located in jurisdictions where the reinsurance is required by applicable law or regulation~~  
11 ~~of that jurisdiction; or~~

12 ~~(2) Credit may be allowed, at the discretion of the commissioner, when reinsurance is~~  
13 ~~ceded to a protected cell of a protected cell company organized under the Protected Cell~~  
14 ~~Companies Act, chapter 64 of this title, in the form of an attribution of assets, insurance liabilities~~  
15 ~~and exposures from the general account of the protected cell company as required by sections 27-~~  
16 ~~64-4 and 27-64-5.~~

17 ~~(g) (1) If the assuming insurer is not licensed or accredited to transact insurance or~~  
18 ~~reinsurance in this state, the credit permitted by subsections (d) and (e) shall not be allowed~~  
19 ~~unless the assuming insurer agrees in the reinsurance agreements:~~

20 ~~(i) That in the event of the failure of the assuming insurer to perform its obligations under~~  
21 ~~the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer,~~  
22 ~~shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United~~  
23 ~~States, will comply with all requirements necessary to give the court jurisdiction, and will abide~~  
24 ~~by the final decision of the court or of any appellate court in the event of an appeal; and~~

25 ~~(ii) To designate the commissioner or a designated attorney as its true and lawful attorney~~  
26 ~~upon whom may be served any lawful process in any action, suit, or proceeding instituted by or~~  
27 ~~on behalf of the ceding company;~~

28 ~~(2) This subsection is not intended to conflict with or override the obligation of the~~  
29 ~~parties to a reinsurance agreement to arbitrate their disputes, if an obligation is created in the~~  
30 ~~agreement.~~

31 (f) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that has  
32 been certified by the commissioner as a reinsurer in this state and secures its obligations in  
33 accordance with the requirements of this subsection.

34 (1) In order to be eligible for certification, the assuming insurer shall meet the following

1 requirements:

2 (i) The assuming insurer must be domiciled and licensed to transact insurance or  
3 reinsurance in a qualified jurisdiction, as determined by the commissioner pursuant to  
4 paragraph(f)(iii) of this subsection;

5 (ii) The assuming insurer must maintain minimum capital and surplus, or its equivalent,  
6 in an amount to be determined by the commissioner pursuant to regulation;

7 (iii) The assuming insurer must maintain financial strength ratings from two or more  
8 rating agencies deemed acceptable by the commissioner pursuant to regulation;

9 (iv) The assuming insurer must agree to submit to the jurisdiction of this state, appoint  
10 the commissioner as its agent for service of process in this state, and agree to provide security for  
11 one hundred percent (100%) of the assuming insurer's liabilities attributable to reinsurance ceded  
12 by U.S. ceding insurers if it resists enforcement of a final U.S. judgment;

13 (v) The assuming insurer must agree to meet applicable information filing requirements  
14 as determined by the commissioner, both with respect to an initial application for certification and  
15 on an ongoing basis; and

16 (vi) The assuming insurer must satisfy any other requirements for certification deemed  
17 relevant by the commissioner.

18 (2) An association including incorporated and individual unincorporated underwriters  
19 may be a certified reinsurer. In order to be eligible for certification, in addition to satisfying  
20 requirements of paragraph (i) above:

21 (i) The association shall satisfy its minimum capital and surplus requirements through the  
22 capital and surplus equivalents (net of liabilities) of the association and its members, which shall  
23 include a joint central fund that may be applied to any unsatisfied obligation of the association or  
24 any of its members, in an amount determined by the commissioner to provide adequate  
25 protection;

26 (ii) The incorporated members of the association shall not be engaged in any business  
27 other than underwriting as a member of the association and shall be subject to the same level of  
28 regulation and solvency control by the association's domiciliary regulator as are the  
29 unincorporated members; and

30 (iii) Within ninety (90) days after its financial statements are due to be filed with the  
31 association's domiciliary regulator, the association shall provide to the commissioner an annual  
32 certification by the association's domiciliary regulator of the solvency of each underwriter  
33 member; or if a certification is unavailable, financial statements, prepared by independent public  
34 accountants, of each underwriter member of the association.

1           (3) The commissioner shall create and publish a list of qualified jurisdictions, under  
2 which an assuming insurer licensed and domiciled in such jurisdiction is eligible to be considered  
3 for certification by the commissioner as a certified reinsurer.

4           (i) In order to determine whether the domiciliary jurisdiction of a non-U.S. assuming  
5 insurer is eligible to be recognized as a qualified jurisdiction, the commissioner shall evaluate the  
6 appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both  
7 initially and on an ongoing basis, and consider the rights, benefits and the extent of reciprocal  
8 recognition afforded by the non-U.S. jurisdiction to reinsurers licensed and domiciled in the U.S.  
9 A qualified jurisdiction must agree to share information and cooperate with the commissioner  
10 with respect to all certified reinsurers domiciled within that jurisdiction. A jurisdiction may not be  
11 recognized as a qualified jurisdiction if the commissioner has determined that the jurisdiction  
12 does not adequately and promptly enforce final U.S. judgments and arbitration awards.  
13 Additional factors may be considered in the discretion of the commissioner.

14           (ii) A list of qualified jurisdictions shall be published through the NAIC committee  
15 process. The commissioner shall consider this list in determining qualified jurisdictions. If the  
16 commissioner approves a jurisdiction as qualified that does not appear on the list of qualified  
17 jurisdictions, the commissioner shall provide thoroughly documented justification in accordance  
18 with criteria to be developed under regulations.

19           (iii) U.S. jurisdictions that meet the requirement for accreditation under the NAIC  
20 financial standards and accreditation program shall be recognized as qualified jurisdictions.

21           (iv) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction,  
22 the commissioner has the discretion to suspend the reinsurer's certification indefinitely, in lieu of  
23 revocation.

24           (4) The commissioner shall assign a rating to each certified reinsurer, giving due  
25 consideration to the financial strength ratings that have been assigned by rating agencies deemed  
26 acceptable to the commissioner pursuant to regulation. The commissioner shall publish a list of  
27 all certified reinsurers and their ratings.

28           (5) A certified reinsurer shall secure obligations assumed from U.S. ceding insurers under  
29 this subsection at a level consistent with its rating, as specified in regulations promulgated by the  
30 commissioner.

31           (i) In order for a domestic ceding insurer to qualify for full financial statement credit for  
32 reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security in a form  
33 acceptable to the commissioner and consistent with the provisions of section 3, or in a multi-  
34 beneficiary trust in accordance with subsection (e) of this section, except as otherwise provided in



1 this subsection.

2 (ii) If a certified reinsurer maintains a trust to fully secure its obligations subject to  
3 subsection (e) of this section, and chooses to secure its obligations incurred as a certified reinsurer  
4 in the form of a multi-beneficiary trust, the certified reinsurer shall maintain separate trust  
5 accounts for its obligations incurred under reinsurance agreements issued or renewed as a  
6 certified reinsurer with reduced security as permitted by this subsection or comparable laws of  
7 other U.S. jurisdictions and for its obligations subject to subsection (e) of this section. It shall be a  
8 condition to the grant of certification under subsection (f) of this section that the certified  
9 reinsurer shall have bound itself, by the language of the trust and agreement with the  
10 commissioner with principal regulatory oversight of each such trust account, to fund, upon  
11 termination of any such trust account, out of the remaining surplus of such trust any deficiency of  
12 any other such trust account.

13 (iii) The minimum trusteed surplus requirements provided in subsection D are not  
14 applicable with respect to a multi-beneficiary trust maintained by a certified reinsurer for the  
15 purpose of securing obligations incurred under this subsection, except that such trust shall  
16 maintain a minimum trusteed surplus of ten million dollars (\$10,000,000).

17 (iv) With respect to obligations incurred by a certified reinsurer under this subsection, if  
18 the security is insufficient, the commissioner shall reduce the allowable credit by an amount  
19 proportionate to the deficiency, and has the discretion to impose further reductions in allowable  
20 credit upon finding that there is a material risk that the certified reinsurer's obligations will not be  
21 paid in full when due.

22 (v) For purposes of this subsection, a certified reinsurer whose certification has been  
23 terminated for any reason shall be treated as a certified reinsurer required to secure one hundred  
24 percent (100%) of its obligations.

25 (A) As used in this subsection, the term "terminated" refers to revocation, suspension,  
26 voluntary surrender and inactive status.

27 (B) If the commissioner continues to assign a higher rating as permitted by other  
28 provisions of this section, this requirement does not apply to a certified reinsurer in inactive status  
29 or to a reinsurer whose certification has been suspended.

30 (6) If an applicant for certification has been certified as a reinsurer in an NAIC accredited  
31 jurisdiction, the commissioner has the discretion to defer to that jurisdiction's certification, and  
32 has the discretion to defer to the rating assigned by that jurisdiction, and such assuming insurer  
33 shall be considered to be a certified reinsurer in this state.

34 (7) A certified reinsurer that ceases to assume new business in this state may request to

1 maintain its certification in inactive status in order to continue to qualify for a reduction in  
2 security for its in-force business. An inactive certified reinsurer shall continue to comply with all  
3 applicable requirements of this subsection, and the commissioner shall assign a rating that takes  
4 into account, if relevant, the reasons why the reinsurer is not assuming new business.

5 (g) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not  
6 meeting the requirements of subsections (b), (c), (d) (e) or (f) of this section, but only as to the  
7 insurance of risks located in jurisdictions where the reinsurance is required by applicable law or  
8 regulation of that jurisdiction.

9 (h) If the assuming insurer is not licensed, accredited or certified to transact insurance or  
10 reinsurance in this state, the credit permitted by subsections (d) and (e) of this section shall not be  
11 allowed unless the assuming insurer agrees in the reinsurance agreements:

12 (1)(i) That in the event of the failure of the assuming insurer to perform its obligations  
13 under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding  
14 insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the  
15 United States, will comply with all requirements necessary to give the court jurisdiction, and will  
16 abide by the final decision of the court or of any appellate court in the event of an appeal; and

17 (ii) To designate the commissioner or a designated attorney as its true and lawful attorney  
18 upon whom may be served any lawful process in any action, suit or proceeding instituted by or on  
19 behalf of the ceding insurer.

20 (2) This subsection is not intended to conflict with or override the obligation of the  
21 parties to a reinsurance agreement to arbitrate their disputes, if this obligation is created in the  
22 agreement.

23 (i) If the assuming insurer does not meet the requirements of subsections (b), (c) or (d),  
24 the credit permitted by subsection (e) or (f) of this section shall not be allowed unless the  
25 assuming insurer agrees in the trust agreements to the following conditions:

26 (1) Notwithstanding any other provisions in the trust instrument, if the trust fund is  
27 inadequate because it contains an amount less than the amount required by subsection (e)(iii) of  
28 this section, or if the grantor of the trust has been declared insolvent or placed into receivership,  
29 rehabilitation, liquidation or similar proceedings under the laws of its state or country of domicile,  
30 the trustee shall comply with an order of the commissioner with regulatory oversight over the  
31 trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the  
32 commissioner with regulatory oversight all of the assets of the trust fund.

33 (2) The assets shall be distributed by and claims shall be filed with and valued by the  
34 commissioner with regulatory oversight in accordance with the laws of the state in which the trust

1 is domiciled that are applicable to the liquidation of domestic insurance companies.

2 (3) If the commissioner with regulatory oversight determines that the assets of the trust  
3 fund or any part thereof are not necessary to satisfy the claims of the U.S. ceding insurers of the  
4 grantor of the trust, the assets or part thereof shall be returned by the commissioner with  
5 regulatory oversight to the trustee for distribution in accordance with the trust agreement.

6 (4) The grantor shall waive any right otherwise available to it under U.S. law that is  
7 inconsistent with this provision.

8 (j) If an accredited or certified reinsurer ceases to meet the requirements for accreditation  
9 or certification, the commissioner may suspend or revoke the reinsurer's accreditation or  
10 certification.

11 (1) The commissioner must give the reinsurer notice and opportunity for hearing. The  
12 suspension or revocation may not take effect until after the commissioner's order on hearing,  
13 unless:

14 (i) The reinsurer waives its right to hearing;

15 (ii) The commissioner's order is based on regulatory action by the reinsurer's domiciliary  
16 jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to transact  
17 insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state  
18 of the reinsurer under subparagraph (f)(vi) of this section; or

19 (iii) The commissioner finds that an emergency requires immediate action and a court of  
20 competent jurisdiction has not stayed the commissioner's action.

21 (A) While a reinsurer's accreditation or certification is suspended, no reinsurance contract  
22 issued or renewed after the effective date of the suspension qualifies for credit except to the  
23 extent that the reinsurer's obligations under the contract are secured in accordance with Section 3.  
24 If a reinsurer's accreditation or certification is revoked, no credit for reinsurance may be granted  
25 after the effective date of the revocation except to the extent that the reinsurer's obligations under  
26 the contract are secured in accordance with subsection (f)(v) or section 3.

27 (k) Concentration Risk.

28 (1) A ceding insurer shall take steps to manage its reinsurance recoverables proportionate  
29 to its own book of business. A domestic ceding insurer shall notify the commissioner within  
30 thirty (30) days after reinsurance recoverables from any single assuming insurer, or group of  
31 affiliated assuming insurers, exceeds fifty percent (50%) of the domestic ceding insurer's last  
32 reported surplus to policyholders, or after it is determined that reinsurance recoverables from any  
33 single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit.  
34 The notification shall demonstrate that the exposure is safely managed by the domestic ceding

1 [insurer.](#)

2 [\(2\) A ceding insurer shall take steps to diversify its reinsurance program. A domestic](#)  
3 [ceding insurer shall notify the commissioner within thirty \(30\) days after ceding to any single](#)  
4 [assuming insurer, or group of affiliated assuming insurers, more than twenty percent \(20%\) of the](#)  
5 [ceding insurer's gross written premium in the prior calendar year, or after it has determined that](#)  
6 [the reinsurance ceded to any single assuming insurer, or group of affiliated assuming insurers, is](#)  
7 [likely to exceed this limit. The notification shall demonstrate that the exposure is safely managed](#)  
8 [by the domestic ceding insurer.](#)

9 SECTION 2. Sections 27-1.1-2 and 27-1.1-5 of the General Laws in Chapter 27-1.1  
10 entitled "Credit for Reinsurance Act" are hereby amended to read as follows:

11 ~~27-1.1-2. Reduction from liability for reinsurance ceded by a domestic insurer to an~~  
12 ~~assuming insurer~~ **Asset or reduction from liability for reinsurance ceded by a domestic**  
13 **insurer to an assuming insurer not meeting the requirements of 27-1.1-1. --** ~~A~~ [An asset or a](#)  
14 reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer  
15 not meeting the requirements of section 27-1.1-1 shall be allowed in an amount not exceeding the  
16 liabilities carried by the ceding insurer. The reduction shall be in the amount of funds held by or  
17 on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a  
18 reinsurance contract with the assuming insurer as security for the payment of obligations  
19 [thereunder](#) ~~under the contract~~, if the security is held in the United States subject to withdrawal  
20 solely by, and under the exclusive control of, the ceding insurer, or, in the case of a trust, held in a  
21 qualified United States financial institution as defined in section 27-1.1-3(b). This security may  
22 be in the form of:

23 (1) Cash;

24 (2) Securities listed by the securities valuation office of the National Association of  
25 Insurance Commissioners, [including those deemed exempt from filing as defined by the Purposes](#)  
26 [and Procedures Manual of the Securities Valuation Office](#), and qualifying as admitted assets;

27 (3)(i) Clean, irrevocable, unconditional letters of credit, issued or confirmed by a  
28 qualified United States [financial](#) institution as defined in section 27-1.1-3(a), no later than  
29 December 31st ~~in respect~~ of the year for which [the](#) filing is being made, and in the possession of,  
30 [or in trust for](#), the ceding ~~company~~ [insurer](#) on or before the filing date of its annual statement.

31 (ii) Letters of credit meeting applicable standards of issuer acceptability as of the dates of  
32 their issuance or confirmation shall, notwithstanding the issuing or confirming institution's  
33 subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable  
34 as security until their expiration, extension, renewal, modification, or amendment, whichever first

1 occurs; or

2 (4) Any other form of security acceptable to the commissioner.

3 **27-1.1-5. Reinsurance agreements affected.** -- This chapter shall apply to all cessions  
4 after ~~June 18, 1991~~, the effective date of this chapter under reinsurance agreements that have ~~had~~  
5 an inception, anniversary, or renewal date not less than six (6) months after ~~June 18, 1991~~, the  
6 effective date of this chapter.

7 SECTION 3. Chapter 27-1.1 of the General Laws entitled "Credit for Reinsurance Act" is  
8 hereby amended by adding thereto the following section:

9 **27-1.1-0.5. Purpose.** -- The purpose of this chapter is to protect the interest of insureds,  
10 claimants, ceding insurers, assuming insurers and the public generally. The legislature hereby  
11 declares its intent is to ensure adequate regulation of insurers and reinsurers and adequate  
12 protection for those to whom they owe obligations. In furtherance of that state interest, the  
13 legislature hereby provides a mandate that upon the insolvency of a non-U.S. insurer or reinsurer  
14 that provides security to fund its U.S. obligations in accordance with this chapter, the assets  
15 representing the security shall be maintained in the United States and claims shall be filed with  
16 and valued by the state insurance commissioner with regulatory oversight, and the assets shall be  
17 distributed, in accordance with the insurance laws of the state in which the trust is domiciled that  
18 are applicable to the liquidation of domestic U.S. insurance companies. The legislature declares  
19 that the matters contained in this chapter are fundamental to the business of insurance in  
20 accordance with 15 U.S.C. §§ 1011-1012.

21 SECTION 4. Sections 27-1.1-6 and 27-1.1-7 of the General Laws in Chapter 27-1.1  
22 entitled "Credit for Reinsurance Act" are hereby repealed.

23 ~~**27-1.1-6. Asset or deduction from liability.** -- No credit shall be allowed as an admitted~~  
24 ~~asset or as a deduction from liability to any ceding company for reinsurance unless the~~  
25 ~~reinsurance is payable by the assuming company on the basis of the liability of the ceding~~  
26 ~~company under the contract or contracts reinsured without diminution because of the insolvency~~  
27 ~~of the ceding company.~~

28 ~~**27-1.1-7. Payment by assuming company.** -- (a) No credit shall be allowed for~~  
29 ~~reinsurance unless the reinsurance agreement provides that payments by the assuming company~~  
30 ~~shall be made directly to the ceding company or to its liquidator, receiver, or statutory successor,~~  
31 ~~except where the contract specifically provides another payee of the reinsurance in the event of~~  
32 ~~the insolvency of the ceding company, or where the assuming company, with the consent of the~~  
33 ~~direct insured or insureds, has assumed the policy obligations of the ceding company to the~~  
34 ~~payees under the policies and in substitution for the obligations of the ceding company to the~~

1 ~~payees.~~

2 ~~(b) Except as provided in this section, no assuming company may pay or settle, or agree~~  
3 ~~to pay or settle, any policy claim, or any portion of a claim, directly to or with a policyholder of~~  
4 ~~any ceding company if an order of rehabilitation or liquidation has been entered against the~~  
5 ~~ceding company.~~

6 SECTION 5. This act shall take effect upon passage.

=====  
LC01424/SUB A  
=====

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO INSURANCE

\*\*\*

- 1           This act would update the Credit for Reinsurance Act to the current version of the
- 2 National Association of Insurance Commissioners model.
- 3           This act would take effect upon passage.

=====  
LC01424/SUB A  
=====