

**2021 -- S 0631 SUBSTITUTE A**

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LC001615/SUB A  
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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2021**

A N A C T

RELATING TO INSURANCE -- CREDIT FOR REINSURANCE ACT

Introduced By: Senator F Lombardi

Date Introduced: March 18, 2021

Referred To: Senate Commerce

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 27-1.1-1 and 27-1.1-4 of the General Laws in Chapter 27-1.1 entitled  
2 "Credit for Reinsurance Act" are hereby amended to read as follows:

3           **27-1.1-1. Credit allowed a domestic ceding insurer.**

4           (a) Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a  
5 reduction from liability on account of reinsurance ceded only when the reinsurer meets the  
6 requirements of subsections (b), (c), (d), (e), (f), ~~(g)~~, or (h) of this section; provided, further, that  
7 the commissioner may adopt by regulation pursuant to § 27-1.1-4 specific additional requirements  
8 relating to or setting forth:

9           (1) The valuation of assets or reserve credits;

10           (2) The amount and forms of security supporting reinsurance arrangements described in §  
11 27-1.1-4; and

12           (3) The circumstances pursuant to which credit will be reduced or eliminated.

13           Credit shall be allowed under subsections (b), (c), or (d) of this section only as respects  
14 cessions of those kinds or classes of business which the assuming insurer is licensed or otherwise  
15 permitted to write or assume in its state of domicile or, in the case of a U.S. branch of an alien  
16 assuming insurer, in the state through which it is entered and licensed to transact insurance or  
17 reinsurance. Credit shall be allowed under subsections (d) or (e) of this section only if the applicable  
18 requirements of subsection ~~(h)~~ (i) of this section have been satisfied.

19           (b) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is

1 licensed to transact insurance or reinsurance in this state.

2 (c) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is  
3 accredited by the commissioner as a reinsurer in this state. In order to be eligible for an accreditation  
4 a reinsurer must:

5 (1) File with the commissioner evidence of its submission to this state's jurisdiction;

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

7 (3) Be licensed to transact insurance or reinsurance in at least one state, or in the case of a  
8 United States branch of an alien assuming insurer, be entered through and licensed to transact  
9 insurance or reinsurance in at least one state;

10 (4) Annually file with the commissioner a copy of its annual statement filed with the  
11 insurance department of its state of domicile and a copy of its most recent audited financial  
12 statement; and

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

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

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

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

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

30 (e)(1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that  
31 maintains a trust fund in a qualified United States financial institution, as defined in § 27-1.1-3(b),  
32 for the payment of the valid claims of its United States ceding insurers, their assigns, and successors  
33 in interest. To enable the commissioner to determine the sufficiency of the trust fund, the assuming  
34 insurer shall report annually to the commissioner information substantially the same as that required

1 to be reported on the National Association of Insurance Commissioners (NAIC) annual statement  
2 form by licensed insurers. The assuming insurer shall submit to examination of its books and  
3 records by the commissioner and bear the expense of examination.

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

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

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

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

16 (iii) The trust shall remain in effect for as long as the assuming insurer has outstanding  
17 obligations due under the reinsurance agreements subject to the trust. No later than February 28 of  
18 each year the trustee of the trust shall report to the commissioner in writing the balance of the trust  
19 and listing the trust's investments at the preceding year end and shall certify the date of termination  
20 of the trust, if so planned, or certify that the trust will not expire prior to the following December  
21 31.

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

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

27 (ii) At any time after the assuming insurer has permanently discontinued underwriting new  
28 business secured by the trust for at least three (3) full years, the commissioner with principal  
29 regulatory oversight of the trust may authorize a reduction in the required trustee surplus, but only  
30 after a finding, based on an assessment of the risk, that the new required surplus level is adequate  
31 for the protection of U.S. ceding insurers, policyholders, and claimants in light of reasonably  
32 foreseeable adverse loss development. The risk assessment may involve an actuarial review,  
33 including an independent analysis of reserves and cash flows, and shall consider all material risk  
34 factors, including, when applicable, the lines of business involved; the stability of the incurred loss

1 estimates; and the effect of the surplus requirements on the assuming insurer's liquidity or solvency.  
2 The minimum required trusteed surplus may not be reduced to an amount less than thirty percent  
3 (30%) of the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers  
4 covered by the trust;

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

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

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

16 ~~(D)~~(III) In addition to these trusts, the group shall maintain in trust a trusteed surplus of  
17 which one hundred million dollars (\$100,000,000) shall be held jointly for the benefit of the U.S.  
18 domiciled ceding insurers of any member of the group for all years of account;

19 ~~(E)~~(B) The incorporated members of the group shall not be engaged in any business other  
20 than underwriting as a member of the group and shall be subject to the same level of regulation and  
21 solvency control by the group's domiciliary regulator as are the unincorporated members;

22 ~~(F)~~(C) Within ninety (90) days after its financial statements are due to be filed with the  
23 group's domiciliary regulator, the group shall provide to the commissioner an annual certification  
24 by the group's domiciliary regulator of the solvency of each underwriter member; or if a  
25 certification is unavailable, financial statements, prepared by independent public accountants, of  
26 each underwriter member of the group; and

27 (iv) In the case of a group of incorporated underwriters under common administration the  
28 group shall:

29 (A) Have continuously transacted an insurance business outside the United States for at  
30 least three (3) years immediately prior to making application for accreditation;

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

32 (C) Maintain a trust fund in an amount not less than the group's several liabilities  
33 attributable to business ceded by United States domiciled ceding insurers to any member of the  
34 group pursuant to reinsurance contracts issued in the name of the group;

1 (D) In addition, maintain a joint trusted surplus of which one hundred million dollars  
2 (\$100,000,000) shall be held jointly for the benefit of U.S. domiciled ceding insurers of any  
3 member of the group as additional security for these liabilities; and

4 (E) Within ninety (90) days after its financial statements are due to be filed with the group's  
5 domiciliary regulator, make available to the commissioner an annual certification of each  
6 underwriter member's solvency by the member's domiciliary regulator and financial statements of  
7 each underwriter member of the group prepared by its independent public accountant.

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

11 (1) In order to be eligible for certification, the assuming insurer shall meet the following  
12 requirements:

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

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

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

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

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

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

29 (2) An association including incorporated and individual unincorporated underwriters may  
30 be a certified reinsurer. In order to be eligible for certification, in addition to satisfying requirements  
31 of subsection (f)(1)(i) above:

32 (i) The association shall satisfy its minimum capital and surplus requirements through the  
33 capital and surplus equivalents (net of liabilities) of the association and its members, which shall  
34 include a joint central fund that may be applied to any unsatisfied obligation of the association or

1 any of its members, in an amount determined by the commissioner to provide adequate protection;

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

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

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

14 (i) In order to determine whether the domiciliary jurisdiction of a non-U.S. assuming  
15 insurer is eligible to be recognized as a qualified jurisdiction, the commissioner shall evaluate the  
16 appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both  
17 initially and on an ongoing basis, and consider the rights, benefits, and the extent of reciprocal  
18 recognition afforded by the non-U.S. jurisdiction to reinsurers licensed and domiciled in the U.S.  
19 A qualified jurisdiction must agree to share information and cooperate with the commissioner with  
20 respect to all certified reinsurers domiciled within that jurisdiction. A jurisdiction may not be  
21 recognized as a qualified jurisdiction if the commissioner has determined that the jurisdiction does  
22 not adequately and promptly enforce final U.S. judgments and arbitration awards. Additional  
23 factors may be considered in the discretion of the commissioner;

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

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

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

34 (4) The commissioner shall assign a rating to each certified reinsurer, giving due

1 consideration to the financial strength ratings that have been assigned by rating agencies deemed  
2 acceptable to the commissioner pursuant to regulation. The commissioner shall publish a list of all  
3 certified reinsurers and their ratings.

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

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

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

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

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

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

34 (A) As used in this subsection, the term "terminated" refers to revocation, suspension,

1 voluntary surrender and inactive status; and

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

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

9 (7) A certified reinsurer that ceases to assume new business in this state may request to  
10 maintain its certification in inactive status in order to continue to qualify for a reduction in security  
11 for its in-force business. An inactive certified reinsurer shall continue to comply with all applicable  
12 requirements of this subsection, and the commissioner shall assign a rating that takes into account,  
13 if relevant, the reasons why the reinsurer is not assuming new business.

14 (g)(1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer meeting  
15 each of the following conditions:

16 (i) The assuming insurer must have its head office or be domiciled in Rhode Island, and be  
17 licensed in a reciprocal jurisdiction. A "Reciprocal jurisdiction" is a jurisdiction that meets one of  
18 the following:

19 (A) A non-U.S. jurisdiction that is subject to an in-force covered agreement with the United  
20 States, each within its legal authority, or, in the case of a covered agreement between the United  
21 States and European Union, is a member state of the European Union. For purposes of this  
22 subsection, a "covered agreement" is an agreement entered into pursuant to the Dodd-Frank Wall  
23 Street Reform and Consumer Protection Act, 31 U.S.C. §§ 313 and 314, that is currently in effect  
24 or in a period of provisional application and addresses the elimination, under specified conditions,  
25 of collateral requirements as a condition for entering into any reinsurance agreement with a ceding  
26 insurer domiciled in this state or for allowing the ceding insurer to recognize credit for reinsurance;

27 (B) A U.S. jurisdiction that meets the requirements for accreditation under the NAIC  
28 financial standards and accreditation program; or

29 (C) A qualified jurisdiction, as determined by the commissioner pursuant to subsection  
30 (f)(3) of this section, which is not otherwise described in subsection (g)(1)(i)(A) or (g)(1)(i)(B) of  
31 this section and which meets certain additional requirements, consistent with the terms and  
32 conditions of in-force covered agreements, as specified by the commissioner in regulation;

33 (ii) The assuming insurer must have and maintain, on an ongoing basis, minimum capital  
34 and surplus, or its equivalent, calculated according to the methodology of its domiciliary



1 jurisdiction, in an amount to be set forth in regulation. If the assuming insurer is an association,  
2 including incorporated and individual unincorporated underwriters, it must have and maintain, on  
3 an ongoing basis, minimum capital and surplus equivalents (net of liabilities), calculated according  
4 to the methodology applicable in its domiciliary jurisdiction, and a central fund containing a  
5 balance in amounts to be set forth in regulation;

6 (iii) The assuming insurer must have and maintain, on an ongoing basis, a minimum  
7 solvency or capital ratio, as applicable, which will be set forth in regulation. If the assuming insurer  
8 is an association, including incorporated and individual unincorporated underwriters, it must have  
9 and maintain, on an ongoing basis, a minimum solvency or capital ratio in the reciprocal jurisdiction  
10 where the assuming insurer has its head office or is domiciled, as applicable, and is also licensed;

11 (iv) The assuming insurer must agree and provide adequate assurance to the commissioner,  
12 in a form specified by the commissioner pursuant to regulation, as follows:

13 (A) The assuming insurer must provide prompt written notice and explanation to the  
14 commissioner if it falls below the minimum requirements set forth in subsection (g)(1)(ii) or  
15 (g)(1)(iii) of this section, or if any regulatory action is taken against it for serious noncompliance  
16 with applicable law;

17 (B) The assuming insurer must consent in writing to the jurisdiction of the courts of this  
18 state and to the appointment of the commissioner as agent for service of process. The commissioner  
19 may require that consent for service of process be provided to the commissioner and included in  
20 each reinsurance agreement. Nothing in this provision shall limit, or in any way alter, the capacity  
21 of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except  
22 to the extent such agreements are unenforceable under applicable insolvency or delinquency laws;

23 (C) The assuming insurer must consent in writing to pay all final judgments, wherever  
24 enforcement is sought, obtained by a ceding insurer or its legal successor, that have been declared  
25 enforceable in the jurisdiction where the judgment was obtained;

26 (D) Each reinsurance agreement must include a provision requiring the assuming insurer  
27 to provide security in an amount equal to one hundred percent (100%) of the assuming insurer's  
28 liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists  
29 enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was  
30 obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by  
31 its legal successor on behalf of its resolution estate; and

32 (E) The assuming insurer must confirm that it is not presently participating in any solvent  
33 scheme of arrangement which involves this state's ceding insurers, and agree to notify the ceding  
34 insurer and the commissioner and to provide security in an amount equal to one hundred percent

1 (100%) of the assuming insurer's liabilities to the ceding insurer, should the assuming insurer enter  
2 into such a solvent scheme of arrangement. Such security shall be in a form consistent with the  
3 provisions of this section and § 27-1.1-2 and as specified by the commissioner in regulation;

4 (v) The assuming insurer or its legal successor must provide, if requested by the  
5 commissioner, on behalf of itself and any legal predecessors, certain documentation to the  
6 commissioner, as specified by the commissioner in regulation;

7 (vi) The assuming insurer must maintain a practice of prompt payment of claims under  
8 reinsurance agreements, pursuant to criteria set forth in regulation;

9 (vii) The assuming insurer's supervisory authority must confirm to the commissioner on an  
10 annual basis, as of the preceding December 31 or at the annual date otherwise statutorily reported  
11 to the reciprocal jurisdiction, that the assuming insurer complies with the requirements set forth in  
12 subsection (g)(1)(ii) and (g)(1)(iii) of this section; and

13 (viii) Nothing in this provision precludes an assuming insurer from providing the  
14 commissioner with information on a voluntary basis.

15 (2) The commissioner shall timely create and publish a list of reciprocal jurisdictions.

16 (i) A list of reciprocal jurisdictions is published through the NAIC committee process. The  
17 commissioner's list shall include any reciprocal jurisdiction as defined under subsection (g)(1)(i)(A)  
18 and (g)(1)(i)(B) of this section, and shall consider any other reciprocal jurisdiction included on the  
19 NAIC list. The commissioner may approve a jurisdiction that does not appear on the NAIC list of  
20 reciprocal jurisdictions in accordance with criteria to be developed under regulations issued by the  
21 commissioner.

22 (ii) The commissioner may remove a jurisdiction from the list of reciprocal jurisdictions  
23 upon a determination that the jurisdiction no longer meets the requirements of a reciprocal  
24 jurisdiction, in accordance with a process set forth in regulations issued by the commissioner,  
25 except that the commissioner shall not remove from the list a reciprocal jurisdiction as defined  
26 under subsection (g)(1)(i)(A) and (g)(1)(i)(B) of this section. Upon removal of a reciprocal  
27 jurisdiction from this list, credit for reinsurance ceded to an assuming insurer which has its home  
28 office or is domiciled in that jurisdiction shall be allowed, if otherwise allowed pursuant to this  
29 chapter.

30 (3) The commissioner shall timely create and publish a list of assuming insurers that have  
31 satisfied the conditions set forth in this subsection and to which cessions shall be granted credit in  
32 accordance with this subsection. The commissioner may add an assuming insurer to such list if an  
33 NAIC accredited jurisdiction has added such assuming insurer to a list of such assuming insurers  
34 or if, upon initial eligibility, the assuming insurer submits the information to the commissioner as

1 required under subsection (g)(1)(iv) of this section and complies with any additional requirements  
2 that the commissioner may impose by regulation, except to the extent that they conflict with an  
3 applicable covered agreement.

4 (4) If the commissioner determines that an assuming insurer no longer meets one or more  
5 of the requirements under this subsection, the commissioner may revoke or suspend the eligibility  
6 of the assuming insurer for recognition under this subsection in accordance with procedures set  
7 forth in regulation.

8 (i) While an assuming insurer's eligibility is suspended, no reinsurance agreement issued,  
9 amended or renewed after the effective date of the suspension qualifies for credit except to the  
10 extent that the assuming insurer's obligations under the contract are secured in accordance with §  
11 27-1.1-2.

12 (ii) If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted  
13 after the effective date of the revocation with respect to any reinsurance agreements entered into  
14 by the assuming insurer, including reinsurance agreements entered into prior to the date of  
15 revocation, except to the extent that the assuming insurer's obligations under the contract are  
16 secured in a form acceptable to the commissioner and consistent with the provisions of § 27-1.1-2.

17 (5) If subject to a legal process of rehabilitation, liquidation or conservation, as applicable,  
18 the ceding insurer, or its representative, may seek and, if determined appropriate by the court in  
19 which the proceedings are pending, may obtain an order requiring that the assuming insurer post  
20 security for all outstanding ceded liabilities.

21 (6) Nothing in this subsection shall limit or in any way alter the capacity of parties to a  
22 reinsurance agreement to agree on requirements for security or other terms in that reinsurance  
23 agreement, except as expressly prohibited by this chapter or other applicable law or regulation.

24 (7) Credit may be taken under this subsection only for reinsurance agreements entered into,  
25 amended, or renewed on or after the effective date of this chapter, and only with respect to losses  
26 incurred and reserves reported on or after the later of:

27 (i) The date on which the assuming insurer has met all eligibility requirements pursuant to  
28 subsection (g)(1) of this section; or

29 (ii) The effective date of the new reinsurance agreement, amendment, or renewal.

30 (A) This subsection does not alter or impair a ceding insurer's right to take credit for  
31 reinsurance, to the extent that credit is not available under this subsection, as long as the reinsurance  
32 qualifies for credit under any other applicable provision of this chapter.

33 (B) Nothing in this subsection shall authorize an assuming insurer to withdraw or reduce  
34 the security provided under any reinsurance agreement except as permitted by the terms of the

1 [agreement.](#)

2 [\(C\) Nothing in this subsection shall limit, or in any way alter, the capacity of parties to any](#)  
3 [reinsurance agreement to renegotiate the agreement.](#)

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

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

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

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

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

21 ~~(i)~~[\(j\)](#) If the assuming insurer does not meet the requirements of subsections (b), (c), or (d),  
22 the credit permitted by subsection (e) or (f) of this section shall not be allowed unless the assuming  
23 insurer agrees in the trust agreements to the following conditions:

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

31 (2) The assets shall be distributed by and claims shall be filed with and valued by the  
32 commissioner with regulatory oversight in accordance with the laws of the state in which the trust  
33 is domiciled that are applicable to the liquidation of domestic insurance companies;

34 (3) If the commissioner with regulatory oversight determines that the assets of the trust

1 fund or any part thereof are not necessary to satisfy the claims of the U.S. ceding insurers of the  
2 grantor of the trust, the assets or part thereof shall be returned by the commissioner with regulatory  
3 oversight to the trustee for distribution in accordance with the trust agreement; and

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

6 ~~(k)~~ If an accredited or certified reinsurer ceases to meet the requirements for  
7 accreditation or certification, the commissioner may suspend or revoke the reinsurer's accreditation  
8 or certification.

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

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

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

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

18 (A) While a reinsurer's accreditation or certification is suspended, no reinsurance contract  
19 issued or renewed after the effective date of the suspension qualifies for credit except to the extent  
20 that the reinsurer's obligations under the contract are secured in accordance with Section 3. If a  
21 reinsurer's accreditation or certification is revoked, no credit for reinsurance may be granted after  
22 the effective date of the revocation except to the extent that the reinsurer's obligations under the  
23 contract are secured in accordance with subsection (f)(v) or ~~section 3~~ [§ 27-1.1-2](#).

24 ~~(l)~~ Concentration Risk.

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

32 (2) A ceding insurer shall take steps to diversify its reinsurance program. A domestic  
33 ceding insurer shall notify the commissioner within thirty (30) days after ceding to any single  
34 assuming insurer, or group of affiliated assuming insurers, more than twenty percent (20%) of the

1 ceding insurer's gross written premium in the prior calendar year, or after it has determined that the  
2 reinsurance ceded to any single assuming insurer, or group of affiliated assuming insurers, is likely  
3 to exceed this limit. The notification shall demonstrate that the exposure is safely managed by the  
4 domestic ceding insurer.

5 **27-1.1-4. Rules and regulations.**

6 (a) The commissioner may adopt reasonable rules and regulations implementing the  
7 provisions of this law.

8 (b) The commissioner is further authorized to adopt rules and regulations applicable to  
9 reinsurance arrangements described in subsection (b)(1) of this section.

10 (1) A regulation adopted pursuant to this section may apply only to reinsurance relating to:

11 (i) Life insurance policies with guaranteed nonlevel gross premiums or guaranteed nonlevel  
12 benefits;

13 (ii) Universal life insurance policies with provisions resulting in the ability of a  
14 policyholder to keep a policy in force over a secondary guarantee period;

15 (iii) Variable annuities with guaranteed death or living benefits;

16 (iv) Long-term-care insurance policies; or

17 (v) Other life and health insurance and annuity products as to which the NAIC adopts  
18 model regulatory requirements with respect to credit for reinsurance.

19 (2) A regulation adopted pursuant to subsection (b)(1)(i) or (b)(1)(ii) of this section may  
20 apply to any treaty containing:

21 (i) Policies issued on or after January 1, 2015; and

22 (ii) Policies issued prior to January 1, 2015, if risk pertaining to the pre-2015 policies is  
23 ceded in connection with the treaty, in whole or in part, on or after January 1, 2015.

24 (3) A regulation adopted pursuant to subsection (b) of this section may require the ceding  
25 insurer, in calculating the amounts or forms of security required to be held under regulations  
26 promulgated under this authority, to use the Valuation Manual adopted by the NAIC under Section  
27 11B(1) of the NAIC Standard Valuation Law, including all amendments adopted by the NAIC and  
28 in effect on the date as which the calculation is made, to the extent applicable.

29 (4) A regulation adopted pursuant to subsection (b) of this section shall not apply to  
30 cessions to an assuming insurer that:

31 [\(i\) Meets the conditions set forth in § 27-1.1-1\(g\);](#)

32 ~~(ii)~~ [\(ii\)](#) Is certified in this state; or

33 ~~(iii)~~ [\(iii\)](#) Maintains at least two hundred fifty million dollars (\$250,000,000) in capital and  
34 surplus when determined in accordance with the NAIC Accounting Practices and Procedures

1 Manual, including all amendments thereto adopted by the NAIC, excluding the impact of any  
2 permitted or prescribed practices; and is:

3 (A) Licensed in at least twenty-six (26) states; or

4 (B) Licensed in at least ten (10) states, and licensed or accredited in a total of at least thirty-  
5 five (35) states.

6 (5) The authority to adopt regulations pursuant to subsection (b) of this section does not  
7 limit the commissioner's general authority to adopt regulations pursuant to subsection (a) of this  
8 section.

9 SECTION 2. This act shall take effect upon passage.

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LC001615/SUB A  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T  
RELATING TO INSURANCE -- CREDIT FOR REINSURANCE ACT

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- 1           This act would update the credit for reinsurance chapter of the general laws to conform to
- 2 the current standard set by the National Association of Insurance Commissioners (NAIC).
- 3           This act would take effect upon passage.

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LC001615/SUB A  
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