

# HOUSE BILL 1166

C4

3lr1628  
CF SB 777

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By: **Delegate Davis**

Introduced and read first time: February 8, 2013

Assigned to: Economic Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 18, 2013

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Insurance – Ceding Insurers and Reinsurance**

3 FOR the purpose of requiring that a domestic ceding insurer be allowed credit for  
4 reinsurance in certain manners under certain circumstances; providing for  
5 certain credit for reinsurance to be allowed under certain circumstances  
6 depending on the licensure or authorization status and accreditation status of  
7 the assuming insurer; establishing certain requirements and procedures for an  
8 assuming reinsurer to be accredited by the Maryland Insurance Commissioner;  
9 providing that an assuming reinsurer is deemed to be qualified under certain  
10 circumstances; requiring an assuming reinsurer to report certain information  
11 each year to the Commissioner for certain purposes and to submit to  
12 examination in a certain manner; prohibiting credit for reinsurance to be  
13 granted unless a certain trust has been approved by a certain official;  
14 establishing certain requirements for certain trusts; providing for the duration  
15 of a certain trust; requiring the trustee of a certain trust to report and certify  
16 certain information to the Commissioner; establishing certain requirements for  
17 certain trusts used by certain insurers; providing for the certification of certain  
18 insurers as reinsurers in this State in accordance with certain requirements  
19 and procedures; requiring the Commissioner to maintain a certain list of  
20 qualified jurisdictions in which an assuming insurer may be domiciled and  
21 considered for certification; providing certain criteria for the Commissioner to  
22 consider in recognizing certain qualified jurisdictions; requiring the  
23 Commissioner to consider a certain list of jurisdictions published through a  
24 certain association for certain purposes; requiring the Commissioner to assign  
25 certain ratings to certain certified reinsurers in a certain manner and to publish

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 a list of the reinsurers and their ratings; authorizing the Commissioner to ~~defer~~  
 2 ~~to use information on~~ the certification and rating assigned by certain  
 3 jurisdictions under certain circumstances for certain purposes; providing for the  
 4 maintenance of certification in an inactive status under certain circumstances;  
 5 requiring a certified reinsurer to secure certain obligations in certain manners  
 6 and forms and at certain levels; requiring the Commissioner to reduce certain  
 7 allowable credit under certain circumstances; authorizing the Commissioner to  
 8 suspend or revoke the accreditation or certification of a reinsurer in a certain  
 9 manner under certain circumstances; limiting the qualification for credit of  
 10 certain reinsurance contracts under certain circumstances; prohibiting certain  
 11 credit if the assuming insurer is not licensed, accredited, or certified except  
 12 under certain circumstances and in a certain manner; providing for the  
 13 construction of a certain provision of this Act; providing for certain assets or  
 14 reductions from liability for certain reinsurance in a certain manner under  
 15 certain circumstances; requiring certain security to be in certain forms and held  
 16 in certain places and certain institutions; requiring a ceding insurer to take  
 17 certain steps to manage certain reinsurance recoverables and to notify the  
 18 Commissioner in certain manners; requiring a ceding insurer to diversify its  
 19 ~~portfolio~~ reinsurance program and notify the Commissioner in certain manners;  
 20 authorizing the Commissioner to adopt certain regulations; repealing certain  
 21 obsolete provisions; defining certain terms; providing that certain laws of the  
 22 State inconsistent with this Act are superseded to the extent of the  
 23 inconsistency; providing that credit for reinsurance ceded to a reinsurer under  
 24 this Act may be allowed only for certain contracts entered into or renewed on or  
 25 after a certain date; providing that existing obligations or contract rights may  
 26 not be impaired by this Act; and generally relating to insurance and  
 27 reinsurance.

28 BY repealing and reenacting, with amendments,  
 29 Article – Insurance  
 30 Section 5–901 through 5–904  
 31 Annotated Code of Maryland  
 32 (2011 Replacement Volume and 2012 Supplement)

33 ~~BY repealing and reenacting, without amendments,~~  
 34 ~~Article – Insurance~~  
 35 ~~Section 5–902~~  
 36 ~~Annotated Code of Maryland~~  
 37 ~~(2011 Replacement Volume and 2012 Supplement)~~

38 BY adding to  
 39 Article – Insurance  
 40 Section ~~5–902.1 and 5–903~~ and 5–906 through 5–914 5–916  
 41 Annotated Code of Maryland  
 42 (2011 Replacement Volume and 2012 Supplement)

43 BY repealing

1 Article – Insurance  
 2 Section ~~5-903, 5-904, and 5-905~~  
 3 Annotated Code of Maryland  
 4 (2011 Replacement Volume and 2012 Supplement)

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

7 **Article – Insurance**

8 5-901.

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

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

12 **(C) “PRIMARY CERTIFYING STATE” MEANS A STATE OTHER THAN**  
 13 **MARYLAND:**

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

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

20 **(D) “QUALIFIED JURISDICTION” MEANS A JURISDICTION THAT THE**  
 21 **COMMISSIONER DETERMINES MEETS THE REQUIREMENTS OF § 5-909 OF THIS**  
 22 **SUBTITLE.**

23 ~~(C)~~ **(E) “QUALIFIED UNITED STATES FINANCIAL INSTITUTION” MEANS:**

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

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

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

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

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

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

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

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

18 (G) "TRUSTEED SURPLUS" MEANS FUNDS HELD IN A TRUST ACCOUNT IN  
 19 EXCESS OF THE REINSURER'S LIABILITIES ATTRIBUTABLE TO REINSURANCE  
 20 CEDED TO THE REINSURER BY UNITED STATES CEDING INSURERS IN  
 21 ACCORDANCE WITH THIS SUBTITLE.

22 5-902.

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

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

27 ~~5-902.1.~~ 5-903.

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

32 ~~5-903.~~ 5-904.

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

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

5 ~~5-903.~~

6 ~~(A)~~ **(B)** (1) CREDIT SHALL BE ALLOWED UNDER SUBSECTION ~~(D)~~, (C),  
7 **(D)**, OR ~~(D)~~ **(E)** OF THIS SECTION WITH RESPECT TO CESSIONS OF THOSE KINDS  
8 OR CLASSES OF BUSINESS THAT THE ASSUMING INSURER IS LICENSED OR  
9 OTHERWISE ALLOWED TO WRITE OR ASSUME IN ITS STATE OF DOMICILE OR, IN  
10 THE CASE OF A UNITED STATES BRANCH OF AN ALIEN ASSUMING INSURER, IN  
11 THE STATE THROUGH WHICH IT IS ENTERED AND LICENSED TO TRANSACT  
12 INSURANCE OR REINSURANCE.

13 (2) CREDIT SHALL BE ALLOWED UNDER SUBSECTION ~~(D)~~ OR (E)  
14 OR **(F)** OF THIS SECTION ONLY IF THE APPLICABLE REQUIREMENTS OF ~~§ 5-911~~ §  
15 **5-913** OF THIS SUBTITLE HAVE BEEN SATISFIED.

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

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

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

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

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

6 ~~§ 904.~~ 5-905.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 ~~5-904. 5-906.~~

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

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

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

33 (3) BE LICENSED TO TRANSACT INSURANCE OR REINSURANCE IN  
34 AT LEAST ONE STATE OR, IN THE CASE OF A UNITED STATES BRANCH OF AN

1 ALIEN ASSUMING INSURER, BE ENTERED THROUGH AND LICENSED TO  
2 TRANSACT INSURANCE OR REINSURANCE IN AT LEAST ONE STATE;

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

7 (5) DEMONSTRATE TO THE SATISFACTION OF THE  
8 COMMISSIONER THAT THE REINSURER HAS ADEQUATE FINANCIAL CAPACITY TO  
9 MEET ITS REINSURANCE OBLIGATIONS AND IS OTHERWISE QUALIFIED TO  
10 ASSUME REINSURANCE FROM DOMESTIC INSURERS.

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

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

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

18 [5-905.

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

21 (1) an annual statement on convention form;

22 (2) a certificate evidencing a deposit; and

23 (3) a certificate of compliance.]

24 ~~5-905.~~ 5-907.

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13           ~~(2) (4) (I)~~ (I) SUBJECT TO SUBPARAGRAPHS (II) AND (III) OF THIS  
14 PARAGRAPH, AT ANY TIME AFTER THE ASSUMING INSURER HAS PERMANENTLY  
15 DISCONTINUED UNDERWRITING NEW BUSINESS SECURED BY THE TRUST FOR AT  
16 LEAST 3 FULL YEARS, ~~THE COMMISSIONER~~ INSURANCE REGULATORY AGENCY  
17 WITH PRINCIPAL REGULATORY OVERSIGHT OF THE TRUST MAY AUTHORIZE A  
18 REDUCTION IN THE REQUIRED TRUSTEED SURPLUS, BUT ONLY AFTER A  
19 FINDING, BASED ON AN ASSESSMENT OF THE RISK, THAT THE NEW REQUIRED  
20 SURPLUS LEVEL IS ADEQUATE FOR THE PROTECTION OF UNITED STATES  
21 CEDING INSURERS, POLICYHOLDERS, AND CLAIMANTS IN LIGHT OF  
22 REASONABLY FORESEEABLE ADVERSE LOSS DEVELOPMENT.

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

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

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

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

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

4 ~~1.~~ ~~(2)~~ ~~FOR~~ FOR REINSURANCE CEDED UNDER  
 5 REINSURANCE ~~AGREEMENTS~~ CONTRACTS WITH AN INCEPTION, AMENDMENT,  
 6 OR RENEWAL DATE ON OR AFTER JANUARY 1, 1993, THE TRUST SHALL CONSIST  
 7 OF A TRUSTEED ACCOUNT IN AN AMOUNT NOT LESS THAN THE RESPECTIVE  
 8 UNDERWRITERS' SEVERAL LIABILITIES ATTRIBUTABLE TO BUSINESS CEDED BY  
 9 UNITED STATES DOMICILED CEDING INSURERS TO ANY UNDERWRITER OF THE  
 10 GROUP.

11 ~~2.~~ ~~(3)~~ ~~FOR~~ FOR REINSURANCE CEDED UNDER  
 12 REINSURANCE ~~AGREEMENTS~~ CONTRACTS WITH AN INCEPTION DATE ON OR  
 13 BEFORE DECEMBER 31, 1992, AND NOT AMENDED OR RENEWED AFTER THAT  
 14 DATE, NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SECTION, THE  
 15 TRUST SHALL CONSIST OF A TRUSTEED ACCOUNT IN AN AMOUNT NOT LESS  
 16 THAN THE RESPECTIVE UNDERWRITERS' SEVERAL INSURANCE AND  
 17 REINSURANCE LIABILITIES ATTRIBUTABLE TO BUSINESS WRITTEN IN THE  
 18 UNITED STATES; ~~AND.~~

19 ~~3.~~ ~~(4)~~ IN ADDITION TO THESE TRUSTS, THE GROUP  
 20 SHALL MAINTAIN IN TRUST A TRUSTEED SURPLUS OF WHICH \$100,000,000  
 21 SHALL BE HELD JOINTLY FOR THE BENEFIT OF THE UNITED STATES DOMICILED  
 22 CEDING INSURERS OF ANY MEMBER OF THE GROUP FOR ALL YEARS OF  
 23 ACCOUNT.

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

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

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

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

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

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

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

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

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

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

15                   ~~(IV) MAINTAIN A JOINT TRUSTEED SURPLUS OF WHICH~~  
 16 ~~\$100,000,000 SHALL BE HELD JOINTLY FOR THE BENEFIT OF UNITED STATES~~  
 17 ~~DOMICILED CEDING INSURERS OF ANY MEMBER OF THE GROUP AS ADDITIONAL~~  
 18 ~~SECURITY FOR THESE LIABILITIES; AND~~

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

25 ~~5-906. 5-908.~~

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

28                   **(1) BE DOMICILED AND LICENSED TO TRANSACT INSURANCE OR**  
 29 **REINSURANCE IN A QUALIFIED JURISDICTION, AS DETERMINED UNDER ~~§ 5-907~~**  
 30 **§ 5-909 OF THIS SUBTITLE;**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 **~~5-907. 5-909.~~**

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

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

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

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

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

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

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

4           (B) (1) ~~THERE IS A~~ THE COMMISSIONER SHALL CONSIDER THE LIST  
5 OF QUALIFIED JURISDICTIONS PUBLISHED THROUGH THE NATIONAL  
6 ASSOCIATION OF INSURANCE COMMISSIONERS COMMITTEE PROCESS IN  
7 DETERMINING THE QUALIFIED JURISDICTIONS IN THIS STATE.

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

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

14                   (II) WHENEVER THE LIST IS AMENDED.

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

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

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

31 ~~5-908.~~ 5-910.

32           (A) (1) THE COMMISSIONER SHALL ASSIGN A RATING TO EACH  
33 CERTIFIED REINSURER BASED ON FACTORS THE COMMISSIONER CONSIDERS  
34 RELEVANT, GIVING DUE CONSIDERATION TO THE FINANCIAL STRENGTH  
35 RATINGS THAT HAVE BEEN ASSIGNED BY RATING AGENCIES ~~THAT THE~~

1 ~~COMMISSIONER CONSIDERS ACCEPTABLE~~ IN ACCORDANCE WITH REGULATIONS  
2 THE COMMISSIONER ADOPTS.

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

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

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

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

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

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

17 (3) BOTH.

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

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

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

28 ~~5-909.~~ 5-911.

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



1           **(B) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IN ORDER FOR**  
2 **A DOMESTIC CEDING INSURER TO QUALIFY FOR FULL FINANCIAL STATEMENT**  
3 **CREDIT FOR REINSURANCE CEDED TO A CERTIFIED REINSURER, THE CERTIFIED**  
4 **REINSURER SHALL MAINTAIN SECURITY IN A FORM THE COMMISSIONER**  
5 **CONSIDERS ACCEPTABLE AND CONSISTENT WITH ~~THE PROVISIONS OF § 5-912~~ §**  
6 **5-914 OF THIS SUBTITLE, OR IN A MULTIBENEFICIARY TRUST IN ACCORDANCE**  
7 **WITH ~~§ 5-905~~ § 5-907 OF THIS SUBTITLE.**

8           **(C) (1) IF A CERTIFIED REINSURER MAINTAINS A TRUST TO FULLY**  
9 **SECURE ITS OBLIGATIONS CONSISTENT WITH ~~THE PROVISIONS OF § 5-905~~**  
10 **§ 5-907 OF THIS SUBTITLE AND CHOOSES TO SECURE ITS OBLIGATIONS**  
11 **INCURRED AS A CERTIFIED REINSURER IN THE FORM OF A MULTIBENEFICIARY**  
12 **TRUST, THE CERTIFIED REINSURER SHALL MAINTAIN SEPARATE TRUST**  
13 **ACCOUNTS FOR ITS OBLIGATIONS INCURRED UNDER REINSURANCE**  
14 **~~AGREEMENTS~~ CONTRACTS ISSUED OR RENEWED AS A CERTIFIED REINSURER**  
15 **WITH REDUCED SECURITY AS ALLOWED BY THIS SECTION OR COMPARABLE**  
16 **LAWS OF OTHER UNITED STATES JURISDICTIONS AND FOR ITS OBLIGATIONS**  
17 **SUBJECT TO ~~§ 5-905~~ § 5-907 OF THIS SUBTITLE.**

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

24           **(D) THE MINIMUM TRUSTEED SURPLUS REQUIREMENTS PROVIDED IN §**  
25 **~~5-905~~ § 5-907 OF THIS SUBTITLE DO NOT APPLY WITH RESPECT TO A**  
26 **MULTIBENEFICIARY TRUST MAINTAINED BY A CERTIFIED REINSURER FOR THE**  
27 **PURPOSE OF SECURING OBLIGATIONS INCURRED UNDER THIS SECTION, EXCEPT**  
28 **THAT THE TRUST SHALL MAINTAIN A MINIMUM TRUSTEED SURPLUS OF**  
29 **\$10,000,000.**

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

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

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

1 (F) (1) FOR PURPOSES OF THIS SECTION, A CERTIFIED REINSURER  
2 WHOSE CERTIFICATION THE COMMISSIONER HAS BEEN REVOKED, SUSPENDED,  
3 ~~VOLUNTARILY SURRENDERED~~, OR PLACED ON INACTIVE STATUS, OR HAS BEEN  
4 VOLUNTARILY SURRENDERED, FOR ANY REASON SHALL BE TREATED AS A  
5 CERTIFIED REINSURER REQUIRED TO SECURE ~~100%~~ ALL OF ITS OBLIGATIONS.

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

11 ~~5-910.~~ 5-912.

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

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

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

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

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

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

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

30 (C) (1) WHILE A REINSURER'S ACCREDITATION OR CERTIFICATION IS  
31 SUSPENDED, A REINSURANCE CONTRACT ISSUED OR RENEWED AFTER THE  
32 EFFECTIVE DATE OF THE SUSPENSION DOES NOT QUALIFY FOR CREDIT EXCEPT

1 TO THE EXTENT THE REINSURER'S OBLIGATIONS UNDER THE CONTRACT ARE  
2 SECURED IN ACCORDANCE WITH ~~§ 5-912~~ § 5-914 OF THIS SUBTITLE.

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

8 ~~5-911, 5-913.~~

9 (A) IF THE ASSUMING INSURER IS NOT LICENSED, ACCREDITED, OR  
10 CERTIFIED TO TRANSACT INSURANCE OR REINSURANCE IN THIS STATE, THE  
11 CREDIT ALLOWED BY ~~§ 5-903(D)~~ § 5-904(E) OF THIS SUBTITLE MAY NOT BE  
12 ALLOWED UNLESS THE ASSUMING INSURER AGREES IN THE REINSURANCE  
13 ~~AGREEMENTS~~ CONTRACTS:

14 (1) THAT IN THE EVENT OF THE FAILURE OF THE ASSUMING  
15 INSURER TO PERFORM ITS OBLIGATIONS UNDER THE TERMS OF THE  
16 REINSURANCE ~~AGREEMENT~~ CONTRACT, THE ASSUMING INSURER, AT THE  
17 REQUEST OF THE ~~OF THE~~ CEDING INSURER, SHALL:

18 (I) SUBMIT TO THE JURISDICTION OF ANY COURT OF  
19 COMPETENT JURISDICTION IN ANY STATE;

20 (II) COMPLY WITH ALL REQUIREMENTS NECESSARY TO GIVE  
21 THE COURT JURISDICTION; AND

22 (III) ABIDE BY THE FINAL DECISION OF THE COURT OR OF  
23 ANY APPELLATE COURT IN CASE OF AN APPEAL; AND

24 (2) TO DESIGNATE THE COMMISSIONER AS ITS RESIDENT AGENT  
25 ON WHOM ANY LAWFUL PROCESS MAY BE SERVED IN ANY ACTION, SUIT, OR  
26 PROCEEDING INSTITUTED BY OR ON BEHALF OF THE CEDING INSURER.

27 (B) SUBSECTION (A) OF THIS SECTION IS NOT INTENDED TO CONFLICT  
28 WITH OR OVERRIDE THE OBLIGATION OF THE PARTIES TO A REINSURANCE  
29 ~~AGREEMENT~~ CONTRACT TO ARBITRATE THEIR DISPUTES, IF THIS OBLIGATION  
30 IS CREATED IN THE REINSURANCE ~~AGREEMENT~~ CONTRACT.

31 (C) IF THE ASSUMING INSURER DOES NOT MEET THE REQUIREMENTS  
32 OF ~~§ 5-903(B)~~ § 5-904(C) OR ~~(D)~~ OF THIS SUBTITLE, THE CREDIT ALLOWED  
33 BY ~~§ 5-903(D)~~ § 5-904(E) AND ~~(F)~~ OF THIS SUBTITLE MAY NOT BE ALLOWED

1 UNLESS THE ASSUMING INSURER AGREES IN THE TRUST AGREEMENTS TO THE  
2 FOLLOWING CONDITIONS:

3 (1) NOTWITHSTANDING ANY OTHER PROVISION IN THE TRUST  
4 INSTRUMENT, IF THE TRUST FUND IS INADEQUATE BECAUSE IT CONTAINS AN  
5 AMOUNT LESS THAN THE AMOUNT REQUIRED BY ~~§ 5-905(J)~~ § 5-907(J) OF THIS  
6 SUBTITLE, OR IF THE GRANTOR OF THE TRUST HAS BEEN DECLARED INSOLVENT  
7 OR PLACED INTO RECEIVERSHIP, REHABILITATION, LIQUIDATION, OR SIMILAR  
8 PROCEEDINGS UNDER THE LAWS OF ITS STATE OR COUNTRY OF DOMICILE, THE  
9 TRUSTEE SHALL COMPLY WITH AN ORDER OF THE ~~COMMISSIONER~~ INSURANCE  
10 REGULATORY AGENCY WITH REGULATORY OVERSIGHT OVER THE TRUST OR  
11 WITH AN ORDER OF A COURT OF COMPETENT JURISDICTION DIRECTING THE  
12 TRUSTEE TO TRANSFER TO THE ~~COMMISSIONER~~ INSURANCE REGULATORY  
13 AGENCY WITH REGULATORY OVERSIGHT ALL OF THE ASSETS OF THE TRUST  
14 FUND;

15 (2) THE ASSETS SHALL BE DISTRIBUTED BY AND CLAIMS SHALL  
16 BE FILED WITH AND VALUED BY THE ~~COMMISSIONER~~ INSURANCE REGULATORY  
17 AGENCY WITH REGULATORY OVERSIGHT OVER THE TRUST IN ACCORDANCE  
18 WITH THE LAWS OF THE STATE IN WHICH THE TRUST IS DOMICILED THAT ARE  
19 APPLICABLE TO THE LIQUIDATION OF DOMESTIC INSURERS;

20 (3) IF THE ~~COMMISSIONER~~ INSURANCE REGULATORY AGENCY  
21 WITH REGULATORY OVERSIGHT OVER THE TRUST DETERMINES THAT THE  
22 ASSETS OF THE TRUST FUND OR ANY PART OF THE ASSETS ARE NOT NECESSARY  
23 TO SATISFY THE CLAIMS OF THE UNITED STATES CEDING INSURERS OF THE  
24 GRANTOR OF THE TRUST, THE ASSETS OR PART SHALL BE RETURNED BY THE  
25 ~~COMMISSIONER~~ INSURANCE REGULATORY AGENCY WITH REGULATORY  
26 OVERSIGHT TO THE TRUSTEE FOR DISTRIBUTION IN ACCORDANCE WITH THE  
27 TRUST AGREEMENT; AND

28 (4) THE GRANTOR SHALL WAIVE ANY RIGHT OTHERWISE  
29 AVAILABLE TO IT UNDER UNITED STATES LAW THAT IS INCONSISTENT WITH  
30 THIS SUBSECTION.

31 ~~5-912.~~ 5-914.

32 (A) AN ASSET OR A REDUCTION FROM LIABILITY FOR THE  
33 REINSURANCE CEDED BY A DOMESTIC INSURER TO AN ASSUMING INSURER NOT  
34 MEETING THE REQUIREMENTS OF ~~§ 5-903~~ § 5-904 OF THIS SUBTITLE SHALL BE  
35 ALLOWED IN AN AMOUNT NOT EXCEEDING THE LIABILITIES CARRIED BY THE  
36 CEDING INSURER.

1           **(B) THE REDUCTION SHALL BE IN THE AMOUNT OF FUNDS HELD BY OR**  
2 **ON BEHALF OF THE CEDING INSURER, INCLUDING FUNDS HELD IN TRUST FOR**  
3 **THE CEDING INSURER, UNDER A REINSURANCE CONTRACT WITH THE ASSUMING**  
4 **INSURER AS SECURITY FOR THE PAYMENT OF OBLIGATIONS UNDER THE**  
5 **CONTRACT, IF THE SECURITY IS HELD:**

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

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

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

11                   **(1) CASH;**

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

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

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

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

33 ~~5-913.~~ 5-915.

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

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

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

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

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

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

22 ~~5-914.~~ 5-916.

23           THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THIS  
24 SUBTITLE.

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

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

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