

Senate Bill 188

By: Senators Walker III of the 20th, Jones of the 25th, Martin of the 9th, Kirk of the 13th and Harbin of the 16th

**AS PASSED**

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 33-7-14 of the Official Code of Georgia Annotated, relating to  
2 reinsurance of risks, so as to provide adequate regulation of reinsurers; to provide for the  
3 incorporation of the National Association of Insurance Commissioners reinsurance model  
4 law into the Georgia Insurance Code; to provide domestic ceding insurers credit as either an  
5 asset or a deduction in liability on account of reinsurance purchased only when the purchase  
6 meets new requirements; to provide for related matters; to provide for applicability; to repeal  
7 conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Code Section 33-7-14 of the Official Code of Georgia Annotated, relating to reinsurance of  
11 risks, is amended as follows:

12 "33-7-14.

13 (a) Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or  
14 a deduction from liability on account of reinsurance ceded only when the reinsurer meets  
15 the requirements of paragraph (1), (2), (3), (4), (5), ~~or (6), or (7)~~ of this subsection, and the  
16 Commissioner may adopt by regulation pursuant to subsection (d) of this Code section  
17 specific additional requirements relating to or setting forth the valuation of assets or reserve  
18 credits, the amount and forms of security supporting reinsurance arrangements described  
19 in subsection (d) of this Code section, and the circumstances in which credit will be  
20 reduced or eliminated. Credit shall be allowed under paragraph (1), (2), or (3) of this  
21 subsection only with respect to cessions of those kinds of classes of business for which the  
22 assuming insurer is licensed or otherwise permitted to write or assume in its state of  
23 domicile, or in the case of a United States branch of an alien assuming insurer, in the state  
24 through which it is entered and licensed to transact insurance or reinsurance. If meeting  
25 the requirements of paragraph (3) or (4) of this subsection, the requirements of paragraph  
26 ~~(7)~~(8) of this subsection shall also be met:

27 (1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which  
 28 is licensed to transact insurance or reinsurance in this state;

29 (2) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which  
 30 is accredited as a reinsurer by the Commissioner in this state. In order to be eligible for  
 31 accreditation, a reinsurer shall:

32 (A) File with the Commissioner evidence of its submission to this state's jurisdiction;

33 (B) Submit to this state's authority to examine its books and records;

34 (C) Be licensed to transact insurance or reinsurance in at least one state, or in the case  
 35 of a United States branch of an alien assuming insurer, be entered through and licensed  
 36 to transact insurance or reinsurance in at least one state;

37 (D) File annually with the Commissioner a copy of its annual statement filed with the  
 38 insurance department of its state of domicile and a copy of its most recent audited  
 39 financial statement; and

40 (E) Demonstrate to the satisfaction of the Commissioner that it has adequate financial  
 41 capacity to meet its reinsurance obligations and is otherwise qualified to assume  
 42 reinsurance from domestic insurers. An assuming insurer is deemed to meet this  
 43 requirement as of the time of its application if it maintains a surplus as regards  
 44 policyholders in an amount of not less than \$20 million and its accreditation has not  
 45 been denied by the Commissioner within 90 days after the submission of its application;

46 (3) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which  
 47 is domiciled and licensed in, or, in the case of a United States branch of an alien  
 48 assuming insurer, is entered through a state which employs standards regarding credit for  
 49 reinsurance substantially similar to those applicable under this Code section and the  
 50 assuming insurer or United States branch of an alien assuming insurer:

51 (A) Maintains a surplus with regard to policyholders in an amount not less than \$20  
 52 million; and

53 (B) Submits to the authority of this state to examine its books and records.

54 Subparagraph (A) of this paragraph shall not apply to reinsurance ceded and assumed  
 55 pursuant to pooling arrangements among insurers in the same holding company system;

56 (4)(A) Credit shall be allowed when the reinsurance is ceded to an assuming insurer  
 57 which maintains a trust fund in a qualified United States financial institution, as defined  
 58 in subsection (c) of this Code section, for the payment of the valid claims of its United  
 59 States ceding insurers, their assigns, and successors in interest. The assuming insurer  
 60 shall report annually to the Commissioner information substantially the same as that  
 61 required to be reported on the National Association of Insurance Commissioners  
 62 Annual Statement form by licensed insurers to enable the Commissioner to determine  
 63 the sufficiency of the trust fund. In the case of a single assuming insurer, the trust shall

64 consist of a trusteed account representing the assuming insurer's liabilities attributable  
65 to business written in the United States and, in addition, the assuming insurer shall  
66 maintain a trusteed surplus of not less than \$20 million; provided, however, that, at any  
67 time after the assuming insurer has permanently discontinued underwriting new  
68 business secured by trust for at least three full years, the commissioner with principal  
69 regulatory oversight of the trust may authorize a reduction of the required trusteed  
70 surplus, but only after a finding, based upon an assessment of the risk, that the new  
71 required surplus level is adequate for the protection of United States ceding insurers,  
72 policyholders, and claimants in light of reasonably foreseeable adverse loss  
73 development. The risk assessment may involve an actuarial review, including an  
74 independent analysis of reserves and cash flows, and shall consider all material risk  
75 factors, including, when applicable, the lines of business involved, the stability of the  
76 incurred loss estimates and the effect of the surplus requirements on the assuming  
77 insurer's liquidity or solvency. The minimum required trusteed surplus may not be  
78 reduced to an amount less than 30 percent of the assuming insurer's liabilities  
79 attributable to reinsurance ceded by United States ceding insurers covered by the trust.  
80 In the case of a group including incorporated and individual unincorporated  
81 underwriters, the trust shall consist of a trusteed account in an amount not less than the  
82 respective underwriters' liabilities attributable to business written in the United States  
83 and, in addition, the group shall maintain a trusteed surplus of which \$100 million shall  
84 be held jointly for the benefit of United States ceding insurers of any member of the  
85 group for all years of account; the incorporated members of the group shall not be  
86 engaged in any business other than underwriting as a member of the group and shall be  
87 subject to the same level of solvency regulation and control by the group's domiciliary  
88 regulator as are the unincorporated members; and, within 90 days after its financial  
89 statements are due to be filed with the group's domiciliary regulator, the group shall  
90 provide to the Commissioner an annual certification of the solvency of each underwriter  
91 by the group's domiciliary regulator or, if a certification is unavailable, financial  
92 statements prepared by independent public accountants of each member of the group.  
93 (B) In the case of a group of incorporated insurers under common administration which  
94 complies with the filing requirements contained in subparagraph (A) of this paragraph  
95 and which has continuously transacted an insurance business outside the United States  
96 for at least three years immediately prior to making application for accreditation, and  
97 submits to this state's authority to examine its books and records and bears the expense  
98 of the examination, and which has aggregate policyholders' surplus of \$10 billion; the  
99 trust shall be in an amount equal to the group's several liabilities attributable to business  
100 ceded by the United States ceding insurers to any member of the group pursuant to

101 reinsurance contracts issued in the name of such group; plus the group shall maintain  
102 a joint trusteed surplus of which \$100 million shall be held jointly for the benefit of  
103 United States ceding insurers of any member of the group as additional security for any  
104 such liabilities, and within 90 days after its financial statements are due to be filed with  
105 the group's domiciliary regulator, each member of the group shall make available to the  
106 Commissioner an annual certification of the member's solvency by the member's  
107 domiciliary regulator and financial statements prepared by its independent public  
108 accountant.

109 (C) Credit for reinsurance shall not be granted under this paragraph unless the form of  
110 the trust and any amendments to the trust have been approved by the commissioner of  
111 the state where the trust is domiciled or the commissioner of another state, who,  
112 pursuant to the terms of the trust agreement, has accepted principal regulatory oversight  
113 of the trust. The form of the trust and any trust amendments also shall be filed with the  
114 commissioner of every state in which the ceding insurer beneficiaries of the trust are  
115 domiciled. The trust instrument shall provide that contested claims shall be valid and  
116 enforceable upon the final order of any court of competent jurisdiction in the United  
117 States. The trust shall vest legal title to its assets in the trustees of the trust for its  
118 United States ceding insurers, their assigns, and successors in interest. The trust and  
119 the assuming insurer shall be subject to examination as determined by the  
120 Commissioner. The trust must remain in effect for as long as the assuming insurer shall  
121 have outstanding obligations due under the reinsurance agreements subject to the trust.

122 (D) No later than February 28 of each year the trustees of the trust shall report to the  
123 Commissioner in writing setting forth the balance of the trust and listing the trust's  
124 investments as of the end of the preceding year and shall certify the date of termination  
125 of the trust, if so planned, or certify that the trust shall not expire prior to the next  
126 following December 31;

127 (5) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not  
128 meeting the requirements of paragraph (1), (2), (3), or (4) of this subsection if such  
129 assuming insurer has been certified by the Commissioner as a reinsurer in this state and  
130 secures its obligations in accordance with the requirements of this subsection.

131 (A) In order to be eligible for certification, the assuming insurer shall meet the  
132 following requirements:

133 (i) The assuming insurer shall be domiciled and licensed to transact insurance or  
134 reinsurance in a qualified jurisdiction, as determined by the Commissioner pursuant  
135 to subparagraph (C) of this paragraph;

- 136 (ii) The assuming insurer shall maintain minimum capital and surplus, or its  
137 equivalent, in an amount to be determined by the Commissioner pursuant to  
138 regulation;
- 139 (iii) The assuming insurer shall maintain financial strength ratings from two or more  
140 rating agencies deemed acceptable by the Commissioner pursuant to regulation;
- 141 (iv) The assuming insurer shall agree to submit to the jurisdiction of this state,  
142 appoint the Commissioner as its agent for service of process in this state, and agree  
143 to provide security for 100 percent of the assuming insurer's liabilities attributable to  
144 reinsurance ceded by United States ceding insurers if it resists enforcement of a final  
145 United States judgment;
- 146 (v) The assuming insurer shall agree to meet applicable information filing  
147 requirements as determined by the Commissioner, both with respect to an initial  
148 application for certification and on an ongoing basis; and
- 149 (vi) The assuming insurer shall satisfy any other requirements for certification  
150 deemed relevant by the Commissioner.
- 151 (B) An association including incorporated and individual unincorporated underwriters  
152 may be a certified reinsurer. In order to be eligible for certification, in addition to  
153 satisfying requirements of subparagraph (A) of this paragraph:
- 154 (i) The association shall satisfy its minimum capital and surplus requirements through  
155 the capital and surplus equivalents, net of liabilities, of the association and its  
156 members, which shall include a joint central fund that may be applied to any  
157 unsatisfied obligation of the association of any of its members, in an amount  
158 determined by the Commissioner to provide adequate protection;
- 159 (ii) The incorporated members of the association shall not be engaged in any business  
160 other than underwriting as a member of the association and shall be subject to the  
161 same level of regulation and solvency control by the association's domiciliary  
162 regulator as are the unincorporated members; and
- 163 (iii) Within 90 days after its financial statements are due to be filed with the  
164 association's domiciliary regulator, the association shall provide to the Commissioner  
165 an annual certification by the association's domiciliary regulator of the solvency of  
166 each underwriter member; or if a certification is unavailable, financial statements,  
167 prepared by independent public accountants, of each underwriter member of the  
168 association.
- 169 (C) The Commissioner shall create and publish a list of qualified jurisdictions under  
170 which an assuming insurer licensed and domiciled in such jurisdiction is eligible to be  
171 considered for certification by the Commissioner as a certified reinsurer.

172 (i) In order to determine whether the domiciliary jurisdiction of a non-United States  
173 assuming insurer is eligible to be recognized as a qualified jurisdiction, the  
174 Commissioner shall evaluate the appropriateness and effectiveness of the reinsurance  
175 supervisory system of the jurisdiction, both initially and on an ongoing basis, and  
176 consider the rights, benefits, and the extent of reciprocal recognition afforded by the  
177 non-United States jurisdiction to reinsurers licensed and domiciled in the United  
178 States. A qualified jurisdiction shall agree to share information and cooperate with  
179 the Commissioner with respect to all certified reinsurers domiciled within that  
180 jurisdiction. A jurisdiction may not be recognized as a qualified jurisdiction if the  
181 Commissioner has determined that the jurisdiction does not adequately and promptly  
182 enforce final United States judgments and arbitration awards. Additional factors may  
183 be considered in the discretion of the Commissioner.

184 (ii) A list of qualified jurisdictions shall be published through the National  
185 Association of Insurance Commissioners (NAIC) Committee Process. The  
186 Commissioner shall consider this list in determining qualified jurisdictions. If the  
187 Commissioner approves a jurisdiction as qualified that does not appear on the list of  
188 qualified jurisdictions, the Commissioner shall provide thoroughly documented  
189 justification in accordance with criteria to be developed under regulations.

190 (iii) United States jurisdictions that meet the requirement for accreditation under the  
191 NAIC financial standards and accreditation program shall be recognized as qualified  
192 jurisdictions.

193 (iv) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified  
194 jurisdiction, the Commissioner has the discretion to suspend the reinsurer's  
195 certification indefinitely, in lieu of revocation.

196 (D) The Commissioner shall assign a rating to each certified reinsurer, giving due  
197 consideration to the financial strength ratings that have been assigned by rating  
198 agencies deemed acceptable to the Commissioner pursuant to regulation. The  
199 Commissioner shall publish a list of all certified reinsurers and their ratings.

200 (E) A certified reinsurer shall secure obligations assumed from United States ceding  
201 insurers under this subparagraph at a level consistent with its rating, as specified in  
202 regulations promulgated by the Commissioner.

203 (i) In order for a domestic ceding insurer to qualify for full financial statement credit  
204 for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain  
205 security in a form acceptable to the Commissioner and consistent with the provisions  
206 of subsection (b) of this Code section, or in a multibeneficiary trust in accordance  
207 with paragraph (4) of this subsection, except as otherwise provided in this paragraph.

208 (ii) If a certified reinsurer maintains a trust to fully secure its obligations subject to  
209 paragraph (4) of this subsection, and chooses to secure its obligations incurred as a  
210 certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer shall  
211 maintain separate trust accounts for its obligations incurred under reinsurance  
212 agreements issued or renewed as a certified reinsurer with reduced security as  
213 permitted by this subsection or comparable laws of other United States jurisdictions  
214 and for its obligations subject to paragraph (4) of this subsection. It shall be a  
215 condition to the grant of certification under this paragraph that the certified reinsurer  
216 shall have bound itself, by the language of the trust and agreement with the  
217 commissioner with principal regulatory oversight of each such trust account, to fund,  
218 upon termination of any such trust account, out of the remaining surplus of such trust  
219 any deficiency of any other such trust account.

220 (iii) The minimum trustee surplus requirements provided in paragraph (4) of this  
221 subsection are not applicable with respect to a multibeneficiary trust maintained by  
222 a certified reinsurer for the purpose of securing obligations incurred under this  
223 subsection, except that such trust shall maintain a minimum trustee surplus of \$10  
224 million.

225 (iv) With respect to obligations incurred by a certified reinsurer under this  
226 subparagraph, if the security is insufficient, the Commissioner shall reduce the  
227 allowable credit by an amount proportionate to the deficiency, and shall have the  
228 discretion to impose further reductions in allowable credit upon finding that there is  
229 a material risk that the certified reinsurer's obligations will not be paid in full when  
230 due.

231 (v) For purposes of this subparagraph, a certified reinsurer whose certification has  
232 been terminated for any reason shall be treated as a certified reinsurer required to  
233 secure 100 percent of its obligations:

234 (I) As used in this subparagraph, the term 'terminated' refers to revocation,  
235 suspension, voluntary surrender, and inactive status.

236 (II) If the Commissioner continues to assign a higher rating as permitted by other  
237 provisions of this paragraph, this requirement shall not apply to a certified reinsurer  
238 in inactive status or to a reinsurer whose certification has been suspended.

239 (F) If an applicant for certification has been certified as a reinsurer in an NAIC  
240 accredited jurisdiction, the Commissioner shall have the discretion to defer to that  
241 jurisdiction's certification, and shall have the discretion to defer to the rating assigned  
242 by that jurisdiction, and such assuming insurer shall be considered to be a certified  
243 reinsurer in this state.

244 (G) A certified reinsurer that ceases to assume new business in this state may request  
 245 to maintain its certification in inactive status in order to continue to qualify for a  
 246 reduction in security for its in-force business. An inactive certified reinsurer shall  
 247 continue to comply with all applicable requirements of this paragraph, and the  
 248 Commissioner shall assign a rating that takes into account, if relevant, the reasons why  
 249 the reinsurer is not assuming new business;

250 (6)(A) Credit shall be allowed when the reinsurance is ceded to an assuming insurer  
 251 meeting each of the conditions set forth below:

252 (i) The assuming insurer must have its head office or be domiciled in, as applicable,  
 253 and be licensed in a reciprocal jurisdiction. For purposes of this paragraph, the term  
 254 'reciprocal jurisdiction' means a jurisdiction that is one of the following:

255 (I) A non-United States jurisdiction that is subject to an in-force covered agreement  
 256 with the United States, each within its legal authority, or, in the case of a covered  
 257 agreement between the United States and European Union, is a member state of the  
 258 European Union. For purposes of this paragraph, the term 'covered agreement'  
 259 means an agreement entered into pursuant to the federal Dodd-Frank Wall Street  
 260 Reform and Consumer Protection Act, 31 U.S.C. §§ 313 and 314, that is currently  
 261 in effect or in a period of provisional application and that addresses the elimination,  
 262 under specified conditions, of collateral requirements as a condition for entering  
 263 into any reinsurance agreement with a ceding insurer domiciled in this state or for  
 264 allowing the ceding insurer to recognize credit for reinsurance;

265 (II) A United States jurisdiction that meets the requirements for accreditation under  
 266 the NAIC financial standards and accreditation program; or

267 (III) A qualified jurisdiction, as determined by the Commissioner pursuant to  
 268 subparagraph (C) of paragraph (5) of this subsection, which is not otherwise  
 269 described in subdivision (I) or (II) of this division and which meets certain  
 270 additional requirements, consistent with the terms and conditions of in-force  
 271 covered agreements, as specified by the Commissioner in regulation;

272 (ii) The assuming insurer must have and maintain, on an ongoing basis, minimum  
 273 capital and surplus, or its equivalent, calculated according to the methodology of its  
 274 domiciliary jurisdiction, in an amount to be set forth in regulation. If the assuming  
 275 insurer is an association, including incorporated and individual unincorporated  
 276 underwriters, it must have and maintain, on an ongoing basis, minimum capital and  
 277 surplus equivalents, net of liabilities, calculated according to the methodology  
 278 applicable in its domiciliary jurisdiction and a central fund containing a balance in  
 279 amounts to be set forth in regulation;



280 (iii) The assuming insurer must have and maintain, on an ongoing basis, a minimum  
281 solvency or capital ratio, as applicable, which shall be set forth in regulation. If the  
282 assuming insurer is an association, including incorporated and individual  
283 unincorporated underwriters, it must have and maintain, on an ongoing basis, a  
284 minimum solvency or capital ratio in the reciprocal jurisdiction where the assuming  
285 insurer has its head office or is domiciled, as applicable, and is also licensed;

286 (iv) The assuming insurer must agree and provide adequate assurance to the  
287 Commissioner, in a form specified by the Commissioner pursuant to regulation, as  
288 follows:

289 (I) The assuming insurer must provide prompt written notice and explanation to the  
290 Commissioner if it falls below the minimum requirements set forth in division (ii)  
291 or (iii) of this subparagraph, or if any regulatory action is taken against it for serious  
292 noncompliance with applicable law;

293 (II) The assuming insurer must consent in writing to the jurisdiction of the courts  
294 of this state and to the appointment of the Commissioner as agent for service of  
295 process. The Commissioner may require that consent for service of process be  
296 provided to the Commissioner and included in each reinsurance agreement.  
297 Nothing in this subdivision shall limit, or in any way alter, the capacity of parties  
298 to a reinsurance agreement to agree to alternative dispute resolution mechanisms,  
299 except to the extent such agreements are unenforceable under applicable insolvency  
300 or delinquency laws;

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

305 (IV) Each reinsurance agreement must include a provision requiring the assuming  
306 insurer to provide security in an amount equal to 100 percent of the assuming  
307 insurer's liabilities attributable to reinsurance ceded pursuant to such agreement if  
308 the assuming insurer resists enforcement of a final judgment that is enforceable  
309 under the law of the jurisdiction in which it was obtained or a properly enforceable  
310 arbitration award, whether obtained by the ceding insurer or by its legal successor  
311 on behalf of its resolution estate; and

312 (V) The assuming insurer must confirm that it is not presently participating in any  
313 solvent scheme of arrangement which involves this state's ceding insurers and agree  
314 to notify the ceding insurer and the Commissioner and to provide security in an  
315 amount equal to 100 percent of the assuming insurer's liabilities to the ceding  
316 insurer, should the assuming insurer enter into such a solvent scheme of

317 arrangement. Such security shall be in a form consistent with the provisions of  
318 paragraph (5) of this subsection and subsection (b) of this Code section and as  
319 specified by the Commissioner in regulation;

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

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

325 (vii) The assuming insurer's supervisory authority must confirm to the Commissioner  
326 on an annual basis, as of the preceding December 31 or at the annual date otherwise  
327 statutorily reported to the reciprocal jurisdiction, that the assuming insurer complies  
328 with the requirements set forth in divisions (ii) and (iii) of this subparagraph.

329 Nothing in this paragraph precludes an assuming insurer from providing the  
330 Commissioner with information on a voluntary basis.

331 (B)(i) The Commissioner shall timely create and publish a list of reciprocal  
332 jurisdictions.

333 (ii) A list of reciprocal jurisdictions is published through the NAIC Committee  
334 Process. The Commissioner's list shall include any reciprocal jurisdiction as defined  
335 in subdivision (A)(i)(I) or (A)(i)(II) of this paragraph and shall consider any other  
336 reciprocal jurisdiction included on the NAIC list. The Commissioner may approve  
337 a jurisdiction that does not appear on the NAIC list of reciprocal jurisdictions in  
338 accordance with criteria to be developed under regulations issued by the  
339 Commissioner.

340 (iii) The Commissioner may remove a jurisdiction from the list of reciprocal  
341 jurisdictions upon a determination that the jurisdiction no longer meets the  
342 requirements of a reciprocal jurisdiction, in accordance with a process set forth in  
343 regulation issued by the Commissioner, except that the Commissioner shall not  
344 remove from the list a reciprocal jurisdiction as defined in subdivision (A)(i)(I) or  
345 (A)(i)(II) of this paragraph. Upon removal of a reciprocal jurisdiction from the list,  
346 credit for reinsurance ceded to an assuming insurer which has its home office or is  
347 domiciled in such jurisdiction shall be allowed, if otherwise allowed pursuant to this  
348 Code section.

349 (C) The Commissioner shall timely create and publish a list of assuming insurers that  
350 have satisfied the conditions set forth in this paragraph and to which cessions shall be  
351 granted credit in accordance with this paragraph. The Commissioner may add an  
352 assuming insurer to such list if an NAIC accredited jurisdiction has added such  
353 assuming insurer to a list of such assuming insurers or if, upon initial eligibility, the

354 assuming insurer submits information to the Commissioner as required under division  
355 (iv) of subparagraph (A) of this paragraph and complies with any additional  
356 requirements that the Commissioner may impose by regulation, except to the extent that  
357 they conflict with an applicable covered agreement.

358 (D)(i) If the Commissioner determines that an assuming insurer no longer meets one  
359 or more of the requirements under this paragraph, the Commissioner may revoke or  
360 suspend the eligibility of the assuming insurer for recognition under this paragraph  
361 in accordance with procedures set forth in regulation.

362 (ii) While an assuming insurer's eligibility is suspended, no reinsurance agreement  
363 issued, amended, or renewed after the effective date of the suspension qualifies for  
364 credit except to the extent that the assuming insurer's obligations under the contract  
365 are secured in accordance with subsection (b) of this Code section.

366 (iii) If an assuming insurer's eligibility is revoked, no credit for reinsurance may be  
367 granted after the effective date of the revocation with respect to any reinsurance  
368 agreements entered into by the assuming insurer, including reinsurance agreements  
369 entered into prior to the date of revocation, except to the extent that the assuming  
370 insurer's obligations under the contract are secured in a form acceptable to the  
371 Commissioner and consistent with the provisions of subsection (b) of this Code  
372 section.

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

377 (F) Nothing in this paragraph shall limit or in any way alter the capacity of parties to  
378 a reinsurance agreement to agree on requirements for security or other terms in such  
379 reinsurance agreement, except as expressly prohibited by this Code section or other  
380 applicable law or regulation.

381 (G) Credit may be taken under this paragraph only for reinsurance agreements entered  
382 into, amended, or renewed on or after the effective date of this Act, and only with  
383 respect to losses incurred and reserves reported on or after the later of the date on which  
384 the assuming insurer has met all eligibility requirements pursuant to subparagraph (A)  
385 of this paragraph or the effective date of the new reinsurance agreement, amendment,  
386 or renewal; provided, however, that:

387 (i) This subparagraph shall not alter or impair a ceding insurer's right to take credit  
388 for reinsurance, to the extent that credit is not available under this paragraph, so long  
389 as the reinsurance qualifies for credit under any other applicable provision of this  
390 Code section;

391 (ii) Nothing in this paragraph shall authorize an assuming insurer to withdraw or  
 392 reduce the security provided under any reinsurance agreement except as permitted by  
 393 the terms of the agreement; and

394 (iii) Nothing in this paragraph shall limit, or in any way alter, the capacity of parties  
 395 to any reinsurance agreement to renegotiate the agreement.

396 (H) This paragraph does not alter or impair a ceding insurer's right to take credit for  
 397 reinsurance, to the extent that credit is not available under this paragraph, as long as the  
 398 reinsurance qualifies for credit under any other applicable provision of this Code  
 399 section.

400 (I) Nothing in this paragraph shall authorize an assuming insurer to withdraw or reduce  
 401 the security provided under any reinsurance agreement except as permitted by the terms  
 402 of the agreement.

403 (J) Nothing in this paragraph shall limit, or in any way alter, the capacity of parties to  
 404 any reinsurance agreement to renegotiate the agreement.

405 ~~(6)~~(7) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not  
 406 meeting the requirements of paragraph (1), (2), (3), (4), ~~or (5), or (6)~~ of this subsection,  
 407 but only as to the insurance of risks located in jurisdictions where the reinsurance is  
 408 required by applicable law or regulation of that jurisdiction;

409 ~~(7)~~(8) If the assuming insurer is not licensed, accredited, or certified to transact insurance  
 410 or reinsurance in this state, the credit permitted by paragraphs (3) and (4) of this  
 411 subsection shall not be allowed unless the assuming insurer agrees in the reinsurance  
 412 agreements:

413 (A) That, in the event of the failure of the assuming insurer to perform its obligations  
 414 under the terms of the reinsurance agreement, the assuming insurer, at the request of the  
 415 ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in  
 416 any state of the United States, shall comply with all requirements necessary to give the  
 417 court jurisdiction, and shall abide by the final decision of the court or of any appellate  
 418 court in the event of an appeal; and

419 (B) To designate the Commissioner or a designated attorney as its true and lawful  
 420 attorney upon whom may be served any lawful process in any action, suit, or  
 421 proceeding instituted by or on behalf of the ceding insurer.

422 This paragraph is not intended to conflict with or override the obligation of the parties to  
 423 a reinsurance agreement to arbitrate their disputes, if this obligation is created in the  
 424 agreement;

425 ~~(8)~~(9) If the assuming insurer does not meet the requirements of paragraph (1), (2),  
 426 ~~or (3), or (6)~~ of this subsection, the credit permitted by paragraph (4) or ~~(6)~~(5) of this

427 subsection shall not be allowed unless the assuming insurer agrees in the trust agreements  
428 to the following conditions:

429 (A) Notwithstanding any other provisions in the trust instrument, if the trust fund is  
430 inadequate because it contains an amount less than the amount required by  
431 subparagraphs (A) and (B) of paragraph (4) of this subsection, as applicable, or if the  
432 grantor of the trust has been declared insolvent or placed into receivership,  
433 rehabilitation, liquidation, or similar proceedings under the laws of its state or country  
434 of domicile, the trustee shall comply with an order of the commissioner with regulatory  
435 oversight over the trust or with an order of a court of competent jurisdiction directing  
436 the trustee to transfer to the commissioner with regulatory oversight all of the assets of  
437 the trust fund;

438 (B) The assets shall be distributed by and claims shall be filed with and valued by the  
439 commissioner with regulatory oversight in accordance with the laws of the state in  
440 which the trust is domiciled that are applicable to the liquidation of domestic insurance  
441 companies;

442 (C) If the commissioner with regulatory oversight determines that the assets of the trust  
443 fund or any part thereof are not necessary to satisfy the claims of the United States  
444 ceding insurers of the grantor of the trust, the assets or part thereof shall be returned by  
445 the commissioner with regulatory oversight to the trustee for distribution in accordance  
446 with the trust agreement; and

447 (D) The grantor shall waive any right otherwise available to it under United States law  
448 that is inconsistent with this ~~provision~~ paragraph.

449 ~~(9)~~(10) If an accredited or certified reinsurer ceases to meet the requirements for  
450 accreditation or certification, the Commissioner may suspend or revoke the reinsurer's  
451 accreditation or certification.

452 (A) The Commissioner shall give the reinsurer notice and opportunity for hearing. The  
453 suspension or revocation shall not take effect until after the Commissioner's order on  
454 hearing, unless:

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

456 (ii) The Commissioner's order is based on regulatory action by the reinsurer's  
457 domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's  
458 eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction  
459 or in the primary certifying state of the reinsurer under subparagraph (F) of  
460 paragraph (5) of this subsection; or

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

463 (B) While a reinsurer's accreditation or certification is suspended, no reinsurance  
 464 contract issued or renewed after the effective date of the suspension qualifies for credit  
 465 except to the extent that the reinsurer's obligations under the contract are secured in  
 466 accordance with subsection (b) of this Code section. If a reinsurer's accreditation or  
 467 certification is revoked, no credit for reinsurance may be granted after the effective date  
 468 of the revocation except to the extent that the reinsurer's obligations under the contract  
 469 are secured in accordance with subparagraph (E) of paragraph (5) of this subsection or  
 470 subsection (b) of this Code section.

471 ~~(10)~~(11) Concentration Risk:

472 (A) A ceding insurer shall take steps to manage its reinsurance recoverable  
 473 proportionate to its own book of business. A domestic ceding insurer shall notify the  
 474 Commissioner within 30 days after reinsurance recoverables from any single assuming  
 475 insurers, or group of affiliated assuming insurers, exceeds 50 percent of the domestic  
 476 ceding insurer's last reported surplus to policyholders, or after it is determined that  
 477 reinsurance recoverables from any single assuming insurer, or group of affiliated  
 478 assuming insurers, is likely to exceed this limit. The notification shall demonstrate that  
 479 the exposure is safely managed by the domestic ceding insurer.

480 (B) A ceding insurer shall take steps to diversify its reinsurance program. A domestic  
 481 ceding insurer shall notify the Commissioner within 30 days after ceding to any single  
 482 assuming insurer, or group of affiliated assuming insurers, more than 20 percent of the  
 483 ceding insurer's gross written premium in the prior calendar year, or after it has  
 484 determined that the reinsurance ceded to any single assuming insurer, or group of  
 485 affiliated assuming insurers, is likely to exceed this limit. The notification shall  
 486 demonstrate that the exposure is safely managed by the domestic ceding insurer.

487 (b) An asset or a reduction from liability for the reinsurance ceded by a domestic insurer  
 488 to an assuming insurer not meeting the requirements of subsection (a) of this Code section  
 489 shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer,  
 490 and the Commissioner may adopt by regulation pursuant to subsection (d) of this Code  
 491 section specific additional requirements relating to or setting forth the valuation of assets  
 492 or reserve credits, the amount and forms of security supporting reinsurance arrangements  
 493 described in subsection (d) of this Code section, and the circumstances in which credit will  
 494 be reduced or eliminated. Such and such reduction shall be in the amount of funds held by  
 495 or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under  
 496 a reinsurance contract with such assuming insurer as security for the payment of  
 497 obligations thereunder, if such security is held in the United States subject to withdrawal  
 498 solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust,

499 held in a qualified United States financial institution, as defined in paragraph (2) of  
500 subsection (c) of this Code section. This security may be in the form of:

501 (1) Cash;

502 (2) Securities listed by the Securities Valuation Office of the National Association of  
503 Insurance Commissioners, including those deemed exempt from filing as defined by the  
504 Purposes and Procedures Manual of the Securities Validation Office, and qualifying as  
505 admitted assets;

506 (3) Clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified  
507 United States financial institution, as defined in paragraph (1) of subsection (c) of this  
508 Code section, no later than December 31 of the year for which filing is being made, and  
509 in the possession of, or in the trust for, the ceding insurer on or before the filing date of  
510 its annual statement. Letters of credit meeting applicable standards of issuer acceptability  
511 as of the dates of their issuance or confirmation shall, notwithstanding the issuing or  
512 confirming institution's subsequent failure to meet applicable standards of issuer  
513 acceptability, continue to be acceptable as security until their expiration, extension,  
514 renewal, modification, or amendment, whichever first occurs; or

515 (4) Any other form of security acceptable to the Commissioner.

516 (c)(1) For purposes of paragraph (3) of subsection (b) of this Code section, the term  
517 'qualified United States financial institution' means an institution that:

518 (A) Is organized or, in the case of a United States office of a foreign banking  
519 organization, licensed under the laws of the United States or any state thereof;

520 (B) Is regulated, supervised, and examined by the United States federal or state  
521 authorities having regulatory authority over banks and trust companies; and

522 (C) Has been determined by either the Commissioner or the Securities Valuation  
523 Office of the National Association of Insurance Commissioners to meet such standards  
524 of financial condition and standing as are considered necessary and appropriate to  
525 regulate the quality of financial institutions whose letters of credit will be acceptable  
526 to the Commissioner.

527 (2) ~~A~~ The term 'qualified United States financial institution' means, for the purposes of  
528 those provisions of this Code section specifying those institutions that are eligible to act  
529 as a fiduciary of a trust, an institution that:

530 (A) Is organized or, in the case of a United States branch or agency office of a foreign  
531 banking organization, licensed under the laws of the United States or any state thereof  
532 and has been granted authority to operate with fiduciary powers; and

533 (B) Is regulated, supervised, and examined by federal or state authorities having  
534 regulatory authority over banks and trust companies.

535 (d)(1) The Commissioner may adopt rules and regulations implementing the provisions  
 536 of this Code section.

537 (2)(A) The Commissioner is further authorized to adopt rules and regulations  
 538 applicable to reinsurance arrangements described in subparagraph (B) of this paragraph.

539 (B) Any regulation adopted pursuant to this paragraph may apply only to reinsurance  
 540 relating to:

541 (i) Life insurance policies with guaranteed nonlevel gross premiums or guaranteed  
 542 nonlevel benefits;

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

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

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

547 (v) Such other life and health insurance and annuity products for which the NAIC  
 548 adopts model regulatory requirements with respect to credit for reinsurance.

549 (C) A regulation adopted pursuant to division (i) or (ii) of subparagraph (B) of this  
 550 paragraph may apply to any treaty containing policies issued on or after January 1,  
 551 2015, or policies issued prior to January 1, 2015, if risk pertaining to policies issued  
 552 prior to January 1, 2015, is ceded in connection with the treaty, in whole or in part, on  
 553 or after January 1, 2015.

554 (3) A regulation adopted pursuant to this subsection may require the ceding insurer, in  
 555 calculating the amounts or forms of security required to be held under regulations  
 556 promulgated under this subsection, to use the valuation manual adopted by the NAIC  
 557 under Section 11B(1) of the NAIC Standard Valuation Law, including all amendments  
 558 adopted by the NAIC and in effect on the date on which the calculation is made, to the  
 559 extent applicable.

560 (4) A regulation adopted pursuant to this subsection shall not apply to cessions to an  
 561 assuming insurer that:

562 (A) Meets the conditions set forth in paragraph (6) of subsection (a) of this Code  
 563 section;

564 (B) Is certified in this state or, if this state has not adopted provisions substantially  
 565 equivalent to Section 2E of the National Association of Insurance Commissioners  
 566 Credit for Reinsurance Model Law (#785), certified in a minimum of five other states;  
 567 or

568 (C) Maintains at least \$250 million in capital and surplus when determined in  
 569 accordance with the NAIC Accounting Practices and Procedures Manual, including all  
 570 amendments thereto adopted by the NAIC, excluding the impact of any permitted or  
 571 prescribed practices, and is:



572 (i) Licensed in at least 26 states; or  
573 (ii) Licensed in at least ten states and licensed or accredited in at least 35 states.  
574 (5) The authority to adopt regulations pursuant to this subsection shall not limit the  
575 Commissioner's general authority to adopt regulations pursuant to paragraph (1) of this  
576 subsection."

577 **SECTION 2.**

578 This Act shall apply to all cessions after the effective date of this Act under reinsurance  
579 agreements that have an inception, anniversary, or renewal date not less than one year after  
580 the effective date of this Act.

581 **SECTION 3.**

582 All laws and parts of laws in conflict with this Act are repealed.