



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB2411

Introduced 2/26/2021, by Sen. Napoleon Harris, III

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Insurance Code. In provisions concerning enterprise risk filings, describes insurance holding company systems that are required to file an annual group capital calculation and those that are exempt from filing a group capital calculation. Provides that the ultimate controlling person of every insurer subject to registration and scoped into the NAIC Liquidity Stress Test Framework shall file the results of a specific year's liquidity stress test. Sets forth restrictions on insurer publishing. In provisions concerning credit allowed for domestic ceding insurers, provides terms by which credit is allowed for reinsurance. Provides that credit shall be allowed when reinsurance is ceded to an assuming insurer that meets specified conditions. Provides that the Director shall timely create and publish a list of reciprocal jurisdictions. Provides that the Director shall timely create and publish a list of assuming insurers that have satisfied specified conditions and to which cessions shall be granted. Provides that the Director may revoke or suspend the eligibility of the assuming insurer. Provides that the ceding insurer or its representative may seek and obtain an order requiring that the assuming insurer post security for all outstanding ceded liabilities under specified conditions. Provides that credit may be taken only for reinsurance agreements entered into, amended, or renewed on or after the effective date of the amendatory Act and only for losses incurred and reported on or after specified dates. Provides that the amendatory Act shall not limit or in any way alter the capacity of parties to a reinsurance agreement to agree on requirements for security or other terms in that reinsurance agreement except as expressly prohibited by applicable law or regulation, shall not authorize an assuming insurer to withdraw or reduce the security provided under any reinsurance agreement except as permitted by the terms of the agreement, and shall not limit or in any way alter the capacity of parties to any reinsurance agreement to renegotiate the agreement. Defines "group capital calculation instructions", "NAIC Liquidity Stress Test Framework", and "scope criteria". Makes other changes. Effective December 31, 2022.

LRB102 16864 BMS 22270 b

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by
5 changing Sections 35B-25, 131.1, 131.5, 131.14b, 131.15,
6 131.22, and 173.1 and by adding Section 131.22a as follows:

7 (215 ILCS 5/35B-25)

8 Sec. 35B-25. Plan of division approval.

9 (a) A division shall not become effective until it is
10 approved by the Director after reasonable notice and a public
11 hearing, if the notice and hearing are deemed by the Director
12 to be in the public interest. The Director shall hold a public
13 hearing if one is requested by the dividing company. A hearing
14 conducted under this Section shall be conducted in accordance
15 with Article 10 of the Illinois Administrative Procedure Act.

16 (b) The Director shall approve a plan of division unless
17 the Director finds that:

18 (1) the interest of any class of policyholder or
19 shareholder of the dividing company will not be properly
20 protected;

21 (2) each new company created by the proposed division,
22 except a new company that is a nonsurviving party to a
23 merger pursuant to subsection (b) of Section 156, would be

1 ineligible to receive a license to do insurance business
2 in this State pursuant to Section 5;

3 (2.5) each new company created by the proposed
4 division, except a new company that is a nonsurviving
5 party to a merger pursuant to subsection (b) of Section
6 156, that will be a member insurer of the Illinois Life and
7 Health Insurance Guaranty Association and that will have
8 policy liabilities allocated to it will not be licensed to
9 do insurance business in each state where such policies
10 were written by the dividing company;

11 (3) the proposed division violates a provision of the
12 Uniform Fraudulent Transfer Act;

13 (4) the division is being made for purposes of
14 hindering, delaying, or defrauding any policyholders or
15 other creditors of the dividing company;

16 (5) one or more resulting companies will not be
17 solvent upon the consummation of the division; or

18 (6) the remaining assets of one or more resulting
19 companies will be, upon consummation of a division,
20 unreasonably small in relation to the business and
21 transactions in which the resulting company was engaged or
22 is about to engage.

23 (c) In determining whether the standards set forth in
24 paragraph (3) of subsection (b) have been satisfied, the
25 Director shall only apply the Uniform Fraudulent Transfer Act
26 to a dividing company in its capacity as a resulting company

1 and shall not apply the Uniform Fraudulent Transfer Act to any
2 dividing company that is not proposed to survive the division.

3 (d) In determining whether the standards set forth in
4 paragraphs (3), (4), (5), and (6) of subsection (b) have been
5 satisfied, the Director may consider all proposed assets of
6 the resulting company, including, without limitation,
7 reinsurance agreements, parental guarantees, support or keep
8 well agreements, or capital maintenance or contingent capital
9 agreements, in each case, regardless of whether the same would
10 qualify as an admitted asset as defined in Section 3.1.

11 (e) In determining whether the standards set forth in
12 paragraph (3) of subsection (b) have been satisfied, with
13 respect to each resulting company, the Director shall, in
14 applying the Uniform Fraudulent Transfer Act, treat:

15 (1) the resulting company as a debtor;

16 (2) liabilities allocated to the resulting company as
17 obligations incurred by a debtor;

18 (3) the resulting company as not having received
19 reasonably equivalent value in exchange for incurring the
20 obligations; and

21 (4) assets allocated to the resulting company as
22 remaining property.

23 (f) All information, documents, materials, and copies
24 thereof submitted to, obtained by, or disclosed to the
25 Director in connection with a plan of division or in
26 contemplation thereof, including any information, documents,

1 materials, or copies provided by or on behalf of a domestic
2 stock company in advance of its adoption or submission of a
3 plan of division, shall be confidential and shall be subject
4 to the same protection and treatment in accordance with
5 Section 131.22 ~~131.14d~~ as documents and reports disclosed to
6 or filed with the Director pursuant to subsection (a) of
7 Section 131.14b until such time, if any, as a notice of the
8 hearing contemplated by subsection (a) is issued.

9 (g) From and after the issuance of a notice of the hearing
10 contemplated by subsection (a), all business, financial, and
11 actuarial information that the domestic stock company requests
12 confidential treatment, other than the plan of division, shall
13 continue to be confidential and shall not be available for
14 public inspection and shall be subject to the same protection
15 and treatment in accordance with Section 131.22 ~~131.14d~~ as
16 documents and reports disclosed to or filed with the Director
17 pursuant to subsection (a) of Section 131.14b.

18 (h) All expenses incurred by the Director in connection
19 with proceedings under this Section, including expenses for
20 the services of any attorneys, actuaries, accountants, and
21 other experts as may be reasonably necessary to assist the
22 Director in reviewing the proposed division, shall be paid by
23 the dividing company filing the plan of division. A dividing
24 company may allocate expenses described in this subsection in
25 a plan of division in the same manner as any other liability.

26 (i) If the Director approves a plan of division, the

1 Director shall issue an order that shall be accompanied by
2 findings of fact and conclusions of law.

3 (j) The conditions in this Section for freeing one or more
4 of the resulting companies from the liabilities of the
5 dividing company and for allocating some or all of the
6 liabilities of the dividing company shall be conclusively
7 deemed to have been satisfied if the plan of division has been
8 approved by the Director in a final order that is not subject
9 to further appeal.

10 (Source: P.A. 100-1118, eff. 11-27-18; 101-549, eff. 1-1-20.)

11 (215 ILCS 5/131.1) (from Ch. 73, par. 743.1)

12 Sec. 131.1. Definitions. As used in this Article, the
13 following terms have the respective meanings set forth in this
14 Section unless the context requires otherwise:

15 (a) An "affiliate" of, or person "affiliated" with, a
16 specific person, is a person that directly, or indirectly
17 through one or more intermediaries, controls, or is controlled
18 by, or is under common control with, the person specified.

19 (a-5) "Acquiring party" means such person by whom or on
20 whose behalf the merger or other acquisition of control
21 referred to in Section 131.4 is to be affected and any person
22 that controls such person or persons.

23 (a-10) "Associated person" means, with respect to an
24 acquiring party, (1) any beneficial owner of shares of the
25 company to be acquired, owned, directly or indirectly, of

1 record or beneficially by the acquiring party, (2) any
2 affiliate of the acquiring party or beneficial owner, and (3)
3 any other person acting in concert, directly or indirectly,
4 pursuant to any agreement, arrangement, or understanding,
5 whether written or oral, with the acquiring party or
6 beneficial owner, or any of their respective affiliates, in
7 connection with the merger, consolidation, or other
8 acquisition of control referred to in Section 131.4 of this
9 Code.

10 (a-15) "Company" has the same meaning as "company" as
11 defined in Section 2 of this Code, except that it does not
12 include agencies, authorities, or instrumentalities of the
13 United States, its possessions and territories, the
14 Commonwealth of Puerto Rico, the District of Columbia, or a
15 state or political subdivision of a state.

16 (b) "Control" (including the terms "controlling",
17 "controlled by" and "under common control with") means the
18 possession, direct or indirect, of the power to direct or
19 cause the direction of the management and policies of a
20 person, whether through the ownership of voting securities,
21 the holding of shareholders' or policyholders' proxies by
22 contract other than a commercial contract for goods or
23 non-management services, or otherwise, unless the power is
24 solely the result of an official position with or corporate
25 office held by the person. Control is presumed to exist if any
26 person, directly or indirectly, owns, controls, holds with the

1 power to vote, or holds shareholders' proxies representing 10%
2 or more of the voting securities of any other person, or holds
3 or controls sufficient policyholders' proxies to elect the
4 majority of the board of directors of the domestic company.
5 This presumption may be rebutted by a showing made in the
6 manner as the Director may provide by rule. The Director may
7 determine, after furnishing all persons in interest notice and
8 opportunity to be heard and making specific findings of fact
9 to support such determination, that control exists in fact,
10 notwithstanding the absence of a presumption to that effect.

11 (b-5) "Enterprise risk" means any activity, circumstance,
12 event, or series of events involving one or more affiliates of
13 a company that, if not remedied promptly, is likely to have a
14 material adverse effect upon the financial condition or
15 liquidity of the company or its insurance holding company
16 system as a whole, including, but not limited to, anything
17 that would cause the company's risk-based capital to fall into
18 company action level as set forth in Article IIA of this Code
19 or would cause the company to be in hazardous financial
20 condition as set forth in Article XII 1/2 of this Code.

21 (b-10) "Exchange Act" means the Securities Exchange Act of
22 1934, as amended, together with the rules and regulations
23 promulgated thereunder.

24 (b-12) "Group capital calculation instructions" means the
25 group capital calculation instructions as adopted by the NAIC
26 and as amended by the NAIC from time to time in accordance with

1 the procedures adopted by the NAIC.

2 (c) "Insurance holding company system" means two or more
3 affiliated persons, one or more of which is an insurance
4 company as defined in paragraph (e) of Section 2 of this Code.

5 (d) (Blank).

6 (d-2) "NAIC Liquidity Stress Test Framework" is a separate
7 NAIC publication which includes a history of the NAIC's
8 development of regulatory liquidity stress testing, the scope
9 criteria applicable for a specific data year, and the
10 liquidity stress test instructions, and reporting templates
11 for a specific data year, such scope criteria, instructions,
12 and reporting template being as adopted by the NAIC and as
13 amended by the NAIC from time to time in accordance with the
14 procedures adopted by the NAIC.

15 (d-5) "Non-operating holding company" is a general
16 business corporation functioning solely for the purpose of
17 forming, owning, acquiring, and managing subsidiary business
18 entities and having no other business operations not related
19 thereto.

20 (d-10) "Own", "owned," or "owning" means shares (1) with
21 respect to which a person has title or to which a person's
22 nominee, custodian, or other agent has title and which such
23 nominee, custodian, or other agent is holding on behalf of the
24 person or (2) with respect to which a person (A) has purchased
25 or has entered into an unconditional contract, binding on both
26 parties, to purchase the shares, but has not yet received the

1 shares, (B) owns a security convertible into or exchangeable
2 for the shares and has tendered the security for conversion or
3 exchange, (C) has an option to purchase or acquire, or rights
4 or warrants to subscribe to, the shares and has exercised such
5 option, rights, or warrants, or (D) holds a securities futures
6 contract to purchase the shares and has received notice that
7 the position will be physically settled and is irrevocably
8 bound to receive the underlying shares. To the extent that any
9 affiliates of the stockholder or beneficial owner are acting
10 in concert with the stockholder or beneficial owner, the
11 determination of shares owned may include the effect of
12 aggregating the shares owned by the affiliate or affiliates.
13 Whether shares constitute shares owned shall be decided by the
14 Director in his or her reasonable determination.

15 (e) "Person" means an individual, a corporation, a limited
16 liability company, a partnership, an association, a joint
17 stock company, a trust, an unincorporated organization, any
18 similar entity or any combination of the foregoing acting in
19 concert, but does not include any securities broker performing
20 no more than the usual and customary broker's function or
21 joint venture partnership exclusively engaged in owning,
22 managing, leasing or developing real or tangible personal
23 property other than capital stock.

24 (e-5) "Policyholders' proxies" are proxies that give the
25 holder the right to vote for the election of the directors and
26 other corporate actions not in the day to day operations of the

1 company.

2 (f) (Blank).

3 (f-5) "Scope criteria", as detailed in the NAIC Liquidity
4 Stress Test Framework, are the designated exposure bases along
5 with minimum magnitudes thereof for the specified data year,
6 used to establish a preliminary list of insurers considered
7 scoped into the NAIC Liquidity Stress Test Framework for that
8 data year.

9 (g) "Subsidiary" of a specified person is an affiliate
10 controlled by such person directly, or indirectly through one
11 or more intermediaries.

12 (h) "Voting Security" is a security which gives to the
13 holder thereof the right to vote for the election of directors
14 and includes any security convertible into or evidencing a
15 right to acquire a voting security.

16 (i) (Blank).

17 (j) (Blank).

18 (k) (Blank).

19 (Source: P.A. 98-609, eff. 1-1-14.)

20 (215 ILCS 5/131.5) (from Ch. 73, par. 743.5)

21 Sec. 131.5. Statement; contents. In order to seek the
22 approval of the Director pursuant to Section 131.8, the
23 applicant must file a statement with the Director under oath
24 or affirmation which contains as a minimum the following
25 information:

1 (1) The name and address of each acquiring party, and

2 (a) if such person is an individual, his principal
3 occupation and all offices and positions held during
4 the past 5 years, and any conviction of crimes, other
5 than minor traffic violations, during the past 10
6 years;

7 (b) if such person is not an individual, a report
8 of the nature of its business operations during the
9 past 5 years or for such lesser period as the person
10 and any predecessors thereof has been in existence; an
11 informative description of the business intended to be
12 conducted by the person and the person's subsidiaries;
13 and a list of all individuals who are or who have been
14 selected to become directors or executive officers of
15 the person, or who perform or will perform functions
16 appropriate to such positions. The list must include
17 for each individual the information required by
18 subsection (1) (a).

19 (2) The source, nature and amount of the consideration
20 used or to be used in effecting the merger, consolidation
21 or other acquisition of control, a description of any
22 transaction wherein funds were or are to be obtained for
23 any such purpose, including any pledge of the company's
24 own securities or the securities of any of its
25 subsidiaries or affiliates, and the identity of persons
26 furnishing such consideration. However, where a source of

1 such consideration is a loan made in the lender's ordinary
2 course of business, the identity of the lender must remain
3 confidential, if the person filing the statement so
4 requests.

5 (3) Financial information as to the earnings and
6 financial condition of each acquiring party for the
7 preceding 5 fiscal years of each acquiring party (or for
8 such lesser period as the acquiring party and any
9 predecessors thereof have been in existence) audited by an
10 independent certified public accountant in accordance with
11 generally accepted auditing standards and similar
12 unaudited information as of a date not earlier than 90
13 days prior to the filing of the statement.

14 (4) Any plans or proposals which each acquiring party
15 may have to liquidate such company, to sell its assets or
16 merge or consolidate it with any person, or to make any
17 other material change in its business or corporate
18 structure or management.

19 (5) The number of shares of any security referred to
20 in Section 131.4 which each acquiring party proposes to
21 acquire, the terms of the offer, request, invitation,
22 agreement, or acquisition referred to in Section 131.4,
23 and a statement as to the method by which the fairness of
24 the proposal was arrived.

25 (6) The amount of each class of any security referred
26 to in Section 131.4 which is beneficially owned or

1 concerning which there is a right to acquire beneficial
2 ownership by each acquiring party.

3 (7) A full description of any existing contracts,
4 arrangements or understandings with respect to any
5 security referred to in Section 131.4 in which any
6 acquiring party is involved, including but not limited to
7 transfer of any of the securities, joint ventures, loan or
8 option arrangements, puts or calls, guarantees of loans,
9 guarantees against loss or guarantees of profits, division
10 of losses or profits, or the giving or withholding of
11 proxies. The description must identify the persons with
12 whom such contracts, arrangements or understandings have
13 been entered into.

14 (8) A description of the acquisition of any security
15 or policyholders' proxy referred to in Section 131.4
16 during the 12 calendar months preceding the filing of the
17 statement, by any acquiring party, including the dates of
18 acquisition, names of the acquiring parties, and
19 consideration paid or agreed to be paid therefor.

20 (9) A description of any recommendations to acquire
21 any security referred to in Section 131.4 made during the
22 12 calendar months preceding the filing of the statement,
23 by any acquiring party, or by anyone based upon interviews
24 or at the suggestion of such acquiring party.

25 (10) Copies of all tender offers for, requests or
26 invitations for tenders of, exchange offers for, and

1 agreements to acquire or exchange any securities referred
2 to in Section 131.4, and (if distributed) of additional
3 soliciting material relating thereto.

4 (11) The terms of any agreement, contract or
5 understanding made with, or proposed to be made with, any
6 broker-dealer as to solicitation of securities referred to
7 in Section 131.4 for tender, and the amount of any fees,
8 commissions or other compensation to be paid to
9 broker-dealers with regard thereto.

10 (12) Beginning July 1, 2014, an agreement by the
11 person required to file the statement referred to in this
12 Section 131.5 that the person will provide the annual
13 report specified in subsection (a) of Section 131.14b for
14 so long as control exists.

15 (13) Beginning July 1, 2014, an acknowledgement by the
16 person required to file the statement referred to in this
17 Section 131.5 that the person and all subsidiaries within
18 its control in the insurance holding company system shall
19 provide information to the Director upon request as
20 necessary to evaluate enterprise risk to the company.

21 (14) Any additional information as the Director may by
22 rule or regulation prescribe as necessary or appropriate
23 for the protection of policyholders or in the public
24 interest.

25 (15) With respect to each acquiring party, the
26 following information:

1 (A) the name and address of all associated persons
2 and a detailed description of every agreement,
3 arrangement, and understanding between the acquiring
4 party and all associated persons in connection with
5 the merger, consolidation, or other acquisition of
6 control;

7 (B) the class or series and number of shares of
8 securities of the company that are directly or
9 indirectly owned beneficially and of record by the
10 acquiring party or the associated persons or both; and

11 (C) a detailed description of each proxy,
12 contract, arrangement, understanding, or relationship
13 pursuant to which the acquiring party or the
14 associated persons, or both, have a right to vote, or
15 cause or direct the vote of, any securities of the
16 company.

17 (Source: P.A. 98-609, eff. 1-1-14.)

18 (215 ILCS 5/131.14b)

19 Sec. 131.14b. Enterprise risk filings ~~filing~~.

20 (a) Annual enterprise risk report. The ultimate
21 controlling person of every company subject to registration
22 shall also file an annual enterprise risk report. The report
23 shall, to the best of the ultimate controlling person's
24 knowledge and belief, identify the material risks within the
25 insurance holding company system that could pose enterprise

1 risk to the company. The report shall be filed with the lead
2 state commissioner of the insurance holding company system as
3 determined by the procedures within the Financial Analysis
4 Handbook adopted by the National Association of Insurance
5 Commissioners.

6 (b) Group capital calculation. Except as provided in this
7 subsection, the ultimate controlling person of every insurer
8 subject to registration shall concurrently file with the
9 registration an annual group capital calculation as directed
10 by the lead state commissioner. The report shall be completed
11 in accordance with the NAIC Group Capital Calculation
12 Instructions, which may permit the lead state commissioner to
13 allow a controlling person who is not the ultimate controlling
14 person to file the group capital calculation. The report shall
15 be filed with the lead state commissioner of the insurance
16 holding company system as determined by the commissioner in
17 accordance with the procedures within the Financial Analysis
18 Handbook adopted by the NAIC. Insurance holding company
19 systems described in the following are exempt from filing the
20 group capital calculation:

21 (1) an insurance holding company system that has only
22 one insurer within its holding company structure, that
23 only writes business and is only licensed in Illinois, and
24 that assumes no business from any other insurer;

25 (2) an insurance holding company system that is
26 required to perform a group capital calculation specified

1 by the United States Federal Reserve Board; the lead state
2 commissioner shall request the calculation from the
3 Federal Reserve Board under the terms of information
4 sharing agreements in effect; if the Federal Reserve Board
5 cannot share the calculation with the lead state
6 commissioner, the insurance holding company system is not
7 exempt from the group capital calculation filing;

8 (3) an insurance holding company system whose non-U.S.
9 group-wide supervisor is located within a reciprocal
10 jurisdiction as described in paragraph (C-10) of
11 subsection (1) of Section 173.1 that recognizes the U.S.
12 state regulatory approach to group supervision and group
13 capital; and

14 (4) an insurance holding company system:

15 (i) that provides information to the lead state
16 that meets the requirements for accreditation under
17 the NAIC financial standards and accreditation
18 program, either directly or indirectly through the
19 group-wide supervisor, who has determined such
20 information is satisfactory to allow the lead state to
21 comply with the NAIC group supervision approach, as
22 detailed in the NAIC Financial Analysis Handbook; and

23 (ii) whose non-U.S. group-wide supervisor that is
24 not in a reciprocal jurisdiction recognizes and
25 accepts, as specified by the commissioner in
26 regulation, the group capital calculation as the

1 world-wide group capital assessment for U.S. insurance
2 groups who operate in that jurisdiction.

3 (5) Notwithstanding the provisions of paragraphs (3)
4 and (4) of this subsection, a lead state commissioner
5 shall require the group capital calculation for U.S.
6 operations of any non-U.S. based insurance holding company
7 system where, after any necessary consultation with other
8 supervisors or officials, it is deemed appropriate by the
9 lead state commissioner for prudential oversight and
10 solvency monitoring purposes or for ensuring the
11 competitiveness of the insurance marketplace.

12 (6) Notwithstanding the exemptions from filing the
13 group capital calculation stated in paragraphs (1) through
14 (4) of this subsection, the lead state commissioner has
15 the discretion to exempt the ultimate controlling person
16 from filing the annual group capital calculation or to
17 accept a limited group capital filing or report in
18 accordance with criteria as specified by the Director in
19 regulation.

20 (c) Liquidity stress test. The ultimate controlling person
21 of every insurer subject to registration and also scoped into
22 the NAIC Liquidity Stress Test Framework shall file the
23 results of a specific year's liquidity stress test. The filing
24 shall be made to the lead state insurance commissioner of the
25 insurance holding company system as determined by the
26 procedures within the Financial Analysis Handbook adopted by

1 the National Association of Insurance Commissioners:

2 (1) The NAIC Liquidity Stress Test Framework includes
3 scope criteria applicable to a specific data year. These
4 scope criteria are reviewed at least annually by the NAIC
5 Financial Stability Task Force or its successor. Any
6 change to the NAIC Liquidity Stress Test Framework or to
7 the data year for which the scope criteria are to be
8 measured shall be effective on January 1 of the year
9 following the calendar year when such changes are adopted.
10 Insurers meeting at least one threshold of the scope
11 criteria are considered scoped into the NAIC Liquidity
12 Stress Test Framework for the specified data year unless
13 the lead state insurance commissioner, in consultation
14 with the NAIC Financial Stability Task Force or its
15 successor, determines the insurer should not be scoped
16 into the Framework for that data year. Similarly, insurers
17 that do not trigger at least one threshold of the scope
18 criteria are considered scoped out of the NAIC Liquidity
19 Stress Test Framework for the specified data year, unless
20 the lead state insurance commissioner, in consultation
21 with the NAIC Financial Stability Task Force or its
22 successor, determines the insurer should be scoped into
23 the Framework for that data year.

24 The lead state insurance commissioner, in consultation
25 with the Financial Stability Task Force or its successor,
26 shall assess the regulator's wish to avoid having insurers

1 scoped in and out of the NAIC Liquidity Stress Test
2 Framework on a frequent basis as part of the determination
3 for an insurer.

4 (2) The performance of, and filing of the results
5 from, a specific year's liquidity stress test shall comply
6 with the NAIC Liquidity Stress Test Framework's
7 instructions and reporting templates for that year and any
8 lead state insurance commissioner determinations, in
9 conjunction with the NAIC Financial Stability Task Force
10 or its successor, provided within the Framework.

11 (Source: P.A. 98-609, eff. 7-1-14.)

12 (215 ILCS 5/131.15) (from Ch. 73, par. 743.15)

13 Sec. 131.15. No information need be disclosed on the
14 registration statement filed under Section 131.14 if the
15 information is not material for the purposes of Sections
16 131.13 through 131.19. Unless the Director by rule, regulation
17 or order provides otherwise, sales, purchases, exchanges,
18 loans or extensions of credit, investments, or guarantees
19 involving one-half of one percent or less of a company's
20 admitted assets as of the 31st day of December next preceding,
21 are not deemed material for purposes of Sections 131.13
22 through 131.19. The description of materiality provided in
23 this Section shall not apply for purposes of subsections (b)
24 and (c) of Section 131.14b.

25 (Source: P.A. 84-805.)

1 (215 ILCS 5/131.22) (from Ch. 73, par. 743.22)

2 Sec. 131.22. Confidential treatment.

3 (a) Documents, materials, or other information in the
4 possession or control of the Department that are obtained by
5 or disclosed to the Director or any other person in the course
6 of an examination or investigation made pursuant to this
7 Article and all information reported pursuant to this Article,
8 with the exception of information submitted pursuant to
9 Section 131.5 through Section 131.10 that is not personal
10 financial information, are recognized by this State as being
11 proprietary and to contain trade secrets, and shall be
12 confidential by law and privileged, shall not be subject to
13 the Illinois Freedom of Information Act, shall not be subject
14 to subpoena, and shall not be subject to discovery or
15 admissible in evidence in any private civil action. However,
16 the Director is authorized to use the documents, materials, or
17 other information in the furtherance of any regulatory or
18 legal action brought as a part of the Director's official
19 duties. The Director shall not otherwise make the documents,
20 materials, or other information public without the prior
21 written consent of the company to which it pertains unless the
22 Director, after giving the company and its affiliates who
23 would be affected thereby prior written notice and an
24 opportunity to be heard, determines that the interest of
25 policyholders, shareholders, or the public shall be served by

1 the publication thereof, in which event the Director may
2 publish all or any part in such manner as may be deemed
3 appropriate.

4 (b) Neither the Director nor any person who received
5 documents, materials, or other information while acting under
6 the authority of the Director or with whom such documents,
7 materials, or other information are shared pursuant to this
8 Article shall be permitted or required to testify in any
9 private civil action concerning any confidential documents,
10 materials, or information subject to subsection (a) of this
11 Section.

12 (c) In order to assist in the performance of the
13 Director's duties, the Director:

14 (1) may share documents, materials, or other
15 information, including the confidential and privileged
16 documents, materials, or information subject to subsection
17 (a) of this Section, including proprietary and trade
18 secret documents and materials, with other state, federal,
19 and international regulatory agencies, with the NAIC and
20 its affiliates and subsidiaries, and with state, federal,
21 and international law enforcement authorities, including
22 members of any supervisory college allowed by this
23 Article, provided that the recipient agrees in writing to
24 maintain the confidentiality and privileged status of the
25 document, material, or other information, and has verified
26 in writing the legal authority to maintain

1 confidentiality;

2 (1.5) notwithstanding paragraph (1) of this subsection
3 (c), may only share confidential and privileged documents,
4 material, or information reported pursuant to subsection
5 (a) of Section 131.14b with commissioners of states having
6 statutes or regulations substantially similar to
7 subsection (a) of this Section and who have agreed in
8 writing not to disclose such information;

9 (2) may receive documents, materials, or information,
10 including otherwise confidential and privileged documents,
11 materials, or information, including proprietary and trade
12 secret information, from the NAIC and its affiliates and
13 subsidiaries and from regulatory and law enforcement
14 officials of other foreign or domestic jurisdictions, and
15 shall maintain as confidential or privileged any document,
16 material, or information received with notice or the
17 understanding that it is confidential or privileged under
18 the laws of the jurisdiction that is the source of the
19 document, material, or information; any such documents,
20 materials, or information, while in the Director's
21 possession, shall not be subject to the Illinois Freedom
22 of Information Act and shall not be subject to subpoena;
23 and

24 (3) (blank).

25 (c-5) Written ~~shall enter into written~~ agreements with the
26 NAIC governing sharing and use of information provided

1 pursuant to this Article consistent with ~~this~~ subsection (c)
2 ~~that~~ shall:

3 (1) ~~(i)~~ specify procedures and protocols regarding the
4 confidentiality and security of information shared with
5 the NAIC and its affiliates and subsidiaries pursuant to
6 this Article, including procedures and protocols for
7 sharing by the NAIC with other state, federal, or
8 international regulators; the agreement shall provide that
9 the recipient agrees in writing to maintain the
10 confidentiality and privileged status of the documents,
11 materials, or other information and has verified in
12 writing the legal authority to maintain such
13 confidentiality;

14 (2) ~~(ii)~~ specify that ownership of information shared
15 with the NAIC and its affiliates and subsidiaries pursuant
16 to this Article remains with the Director and the NAIC's
17 use of the information is subject to the direction of the
18 Director;

19 (3) ~~(iii)~~ require prompt notice to be given to a
20 company whose confidential information in the possession
21 of the NAIC pursuant to this Article is subject to a
22 request or subpoena to the NAIC for disclosure or
23 production; ~~and~~

24 (4) ~~(iv)~~ require the NAIC and its affiliates and
25 subsidiaries to consent to intervention by a company in
26 any judicial or administrative action in which the NAIC

1 and its affiliates and subsidiaries may be required to
2 disclose confidential information about the company shared
3 with the NAIC and its affiliates and subsidiaries pursuant
4 to this Article; ~~and~~.

5 (5) excluding documents, material, or information
6 reported pursuant to subsection (c) of Section 131.14b,
7 prohibit the NAIC or third-party consultant from storing
8 the information shared pursuant to this Code in a
9 permanent database after the underlying analysis is
10 completed.

11 (d) The sharing of documents, materials, or information by
12 the Director pursuant to this Article shall not constitute a
13 delegation of regulatory authority or rulemaking, and the
14 Director is solely responsible for the administration,
15 execution, and enforcement of the provisions of this Article.

16 (e) No waiver of any applicable privilege or claim of
17 confidentiality in the documents, materials, or information
18 shall occur as a result of disclosure to the Director under
19 this Section or as a result of sharing as authorized in
20 subsection (c) of this Section.

21 (f) Documents, materials, or other information in the
22 possession or control of the NAIC pursuant to this Article
23 shall be confidential by law and privileged, shall not be
24 subject to the Illinois Freedom of Information Act, shall not
25 be subject to subpoena, and shall not be subject to discovery
26 or admissible in evidence in any private civil action.

1 (Source: P.A. 98-609, eff. 1-1-14.)

2 (215 ILCS 5/131.22a new)

3 Sec. 131.22a. Restrictions on insurer publishing. The
4 group capital calculation and resulting group capital ratio
5 required under subsection (b) of Section 131.14b and the
6 liquidity stress test along with its results and supporting
7 disclosures required under subsection (c) of Section 131.14b
8 are regulatory tools for assessing group risks and capital
9 adequacy and group liquidity risks, respectively, and are not
10 intended as a means to rank insurers or insurance holding
11 company systems generally. Therefore, except as otherwise may
12 be required under the provisions of this Code, the making,
13 publishing, disseminating, circulating, or placing before the
14 public, or causing directly or indirectly to be made,
15 published, disseminated, circulated, or placed before the
16 public in a newspaper, magazine, or other publication, or in
17 the form of a notice, circular, pamphlet, letter, or poster,
18 or over any radio or television station or any electronic
19 means of communication available to the public, or in any
20 other way as an advertisement, announcement, or statement
21 containing a representation or statement with regard to the
22 group capital calculation, group capital ratio, the liquidity
23 stress test results, or supporting disclosures for the
24 liquidity stress test of any insurer or any insurer group, or
25 of any component derived in the calculation by any insurer,

1 broker, or other person engaged in any manner in the insurance
2 business would be misleading and is therefore prohibited;
3 however, if any materially false statement with respect to the
4 group capital calculation, resulting group capital ratio, an
5 inappropriate comparison of any amount to an insurer's or
6 insurance group's group capital calculation or resulting group
7 capital ratio, liquidity stress test result, supporting
8 disclosures for the liquidity stress test, or an inappropriate
9 comparison of any amount to an insurer's or insurance group's
10 liquidity stress test result or supporting disclosures is
11 published in any written publication and the insurer is able
12 to demonstrate to the Director with substantial proof the
13 falsity of such statement or the inappropriateness, as the
14 case may be, then the insurer may publish announcements in a
15 written publication if the sole purpose of the announcement is
16 to rebut the materially false statement.

17 (215 ILCS 5/173.1) (from Ch. 73, par. 785.1)

18 Sec. 173.1. Credit allowed a domestic ceding insurer.

19 (1) Except as otherwise provided under Article VIII 1/2 of
20 this Code and related provisions of the Illinois
21 Administrative Code, credit for reinsurance shall be allowed a
22 domestic ceding insurer as either an admitted asset or a
23 deduction from liability on account of reinsurance ceded only
24 when the reinsurer meets the requirements of paragraph (A) ~~or~~
25 (B) ~~or~~ (B-5) ~~or~~ (C) ~~or~~ (C-5) (C-10) ~~or~~ (D) of this

1 subsection (1). Credit shall be allowed under paragraph (A),
2 (B), or (B-5) of this subsection (1) only as respects cessions
3 of those kinds or classes of business in which the assuming
4 insurer is licensed or otherwise permitted to write or assume
5 in its state of domicile, or in the case of a U.S. branch of an
6 alien assuming insurer, in the state through which it is
7 entered and licensed to transact insurance or reinsurance.
8 Credit shall be allowed under paragraph (B-5) or (C) of this
9 subsection (1) only if the applicable requirements of
10 paragraph (E) of this subsection (1) have been satisfied.

11 (A) Credit shall be allowed when the reinsurance is
12 ceded to an assuming insurer that is authorized in this
13 State to transact the types of insurance ceded and has at
14 least \$5,000,000 in capital and surplus.

15 (B) Credit shall be allowed when the reinsurance is
16 ceded to an assuming insurer that is accredited as a
17 reinsurer in this State. An accredited reinsurer is one
18 that:

19 (1) files with the Director evidence of its
20 submission to this State's jurisdiction;

21 (2) submits to this State's authority to examine
22 its books and records;

23 (3) is licensed to transact insurance or
24 reinsurance in at least one state, or in the case of a
25 U.S. branch of an alien assuming insurer is entered
26 through and licensed to transact insurance or

1 reinsurance in at least one state;

2 (4) files annually with the Director a copy of its
3 annual statement filed with the insurance department
4 of its state of domicile and a copy of its most recent
5 audited financial statement; and

6 (5) maintains a surplus as regards policyholders
7 in an amount that is not less than \$20,000,000 and
8 whose accreditation has been approved by the Director.

9 (B-5) (1) Credit shall be allowed when the reinsurance
10 is ceded to an assuming insurer that is domiciled in, or in
11 the case of a U.S. branch of an alien assuming insurer is
12 entered through, a state that employs standards regarding
13 credit for reinsurance substantially similar to those
14 applicable under this Code and the assuming insurer or
15 U.S. branch of an alien assuming insurer:

16 (a) maintains a surplus as regards policyholders
17 in an amount not less than \$20,000,000; and

18 (b) submits to the authority of this State to
19 examine its books and records.

20 (2) The requirement of item (a) of subparagraph (1) of
21 paragraph (B-5) of this subsection (1) does not apply to
22 reinsurance ceded and assumed pursuant to pooling
23 arrangements among insurers in the same holding company
24 system.

25 (C) (1) Credit shall be allowed when the reinsurance
26 is ceded to an assuming insurer that maintains a trust

1 fund in a qualified United States financial institution,
2 as defined in paragraph (B) of subsection (3) of this
3 Section, for the payment of the valid claims of its United
4 States policyholders and ceding insurers, their assigns
5 and successors in interest. The assuming insurer shall
6 report to the Director information substantially the same
7 as that required to be reported on the NAIC annual and
8 quarterly financial statement by authorized insurers and
9 any other financial information that the Director deems
10 necessary to determine the financial condition of the
11 assuming insurer and the sufficiency of the trust fund.
12 The assuming insurer shall provide or make the information
13 available to the ceding insurer. The assuming insurer may
14 decline to release trade secrets or commercially sensitive
15 information that would qualify as exempt from disclosure
16 under the Freedom of Information Act. The Director shall
17 also make the information publicly available, subject only
18 to such reasonable objections as might be raised to a
19 request pursuant to the Freedom of Information Act, as
20 determined by the Director. The assuming insurer shall
21 submit to examination of its books and records by the
22 Director and bear the expense of examination.

23 (2) (a) Credit for reinsurance shall not be granted
24 under this subsection unless the form of the trust and any
25 amendments to the trust have been approved by:

26 (i) the regulatory official of the state where the

1 trust is domiciled; or

2 (ii) the regulatory official of another state who,
3 pursuant to the terms of the trust instrument, has
4 accepted principal regulatory oversight of the trust.

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

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

26 No later than February 28 of each year, the assuming

1 insurer's chief executive officer or chief financial
2 officer shall certify to the Director that the trust fund
3 contains funds in an amount not less than the assuming
4 insurer's liabilities (as reported to the assuming insurer
5 by its cedent) attributable to reinsurance ceded by U.S.
6 ceding insurers, and in addition, a trusted surplus of no
7 less than \$20,000,000. In the event that item (a-5) of
8 subparagraph (3) of this paragraph (C) applies to the
9 trust, the assuming insurer's chief executive officer or
10 chief financial officer shall then certify to the Director
11 that the trust fund contains funds in an amount not less
12 than the assuming insurer's liabilities (as reported to
13 the assuming insurer by its cedent) attributable to
14 reinsurance ceded by U.S. ceding insurers and, in
15 addition, a reduced trusted surplus of not less than the
16 amount that has been authorized by the regulatory
17 authority having principal regulatory oversight of the
18 trust.

19 (d) No later than February 28 of each year, an
20 assuming insurer that maintains a trust fund in accordance
21 with this paragraph (C) shall provide or make available,
22 if requested by a beneficiary under the trust fund, the
23 following information to the assuming insurer's U.S.
24 ceding insurers or their assigns and successors in
25 interest:

26 (i) a copy of the form of the trust agreement and

1 any trust amendments to the trust agreement pertaining
2 to the trust fund;

3 (ii) a copy of the annual and quarterly financial
4 information, and its most recent audited financial
5 statement provided to the Director by the assuming
6 insurer, including any exhibits and schedules thereto;

7 (iii) any financial information provided to the
8 Director by the assuming insurer that the Director has
9 deemed necessary to determine the financial condition
10 of the assuming insurer and the sufficiency of the
11 trust fund;

12 (iv) a copy of any annual and quarterly financial
13 information provided to the Director by the trustee of
14 the trust fund maintained by the assuming insurer,
15 including any exhibits and schedules thereto;

16 (v) a copy of the information required to be
17 reported by the trustee of the trust to the Director
18 under the provisions of this paragraph (C); and

19 (vi) a written certification that the trust fund
20 consists of funds in trust in an amount not less than
21 the assuming insurer's liabilities attributable to
22 reinsurance liabilities (as reported to the assuming
23 insurer by its cedent) attributable to reinsurance
24 ceded by U.S. ceding insurers and, in addition, a
25 trusted surplus of not less than \$20,000,000.

26 (3) The following requirements apply to the following

1 categories of assuming insurer:

2 (a) The trust fund for a single assuming insurer
3 shall consist of funds in trust in an amount not less
4 than the assuming insurer's liabilities attributable
5 to reinsurance ceded by U.S. ceding insurers, and in
6 addition, the assuming insurer shall maintain a
7 trusted surplus of not less than \$20,000,000, except
8 as provided in item (a-5) of this subparagraph (3).

9 (a-5) At any time after the assuming insurer has
10 permanently discontinued underwriting new business
11 secured by the trust for at least 3 full years, the
12 Director with principal regulatory oversight of the
13 trust may authorize a reduction in the required
14 trusted surplus, but only after a finding, based on
15 an assessment of the risk, that the new required
16 surplus level is adequate for the protection of U.S.
17 ceding insurers, policyholders, and claimants in light
18 of reasonably foreseeable adverse loss development.
19 The risk assessment may involve an actuarial review,
20 including an independent analysis of reserves and cash
21 flows, and shall consider all material risk factors,
22 including, when applicable, the lines of business
23 involved, the stability of the incurred loss
24 estimates, and the effect of the surplus requirements
25 on the assuming insurer's liquidity or solvency. The
26 minimum required trusted surplus may not be reduced

1 to an amount less than 30% of the assuming insurer's
2 liabilities attributable to reinsurance ceded by U.S.
3 ceding insurers covered by the trust.

4 (b) (i) In the case of a group including
5 incorporated and individual unincorporated
6 underwriters:

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

15 (II) for reinsurance ceded under reinsurance
16 agreements with an inception date on or before
17 December 31, 1992 and not amended or renewed after
18 that date, notwithstanding the other provisions of
19 this Act, the trust shall consist of a trusteed
20 account in an amount not less than the group's
21 several insurance and reinsurance liabilities
22 attributable to business written in the United
23 States; and

24 (III) in addition to these trusts, the group
25 shall maintain in trust a trusteed surplus of
26 which not less than \$100,000,000 shall be held

1 jointly for the benefit of the U.S. domiciled
2 ceding insurers of any member of the group for all
3 years of account.

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

10 (iii) Within 90 days after its financial
11 statements are due to be filed with the group's
12 domiciliary regulator, the group shall provide to the
13 Director an annual certification by the group's
14 domiciliary regulator of the solvency of each
15 underwriter member, or if a certification is
16 unavailable, financial statements prepared by
17 independent public accountants of each underwriter
18 member of the group.

19 (c) In the case of a group of incorporated
20 insurers under common administration, the group shall:

21 (i) have continuously transacted an insurance
22 business outside the United States for at least 3
23 years immediately before making application for
24 accreditation;

25 (ii) maintain aggregate policyholders' surplus
26 of not less than \$10,000,000,000;

1 (iii) maintain a trust in an amount not less
2 than the group's several liabilities attributable
3 to business ceded by United States domiciled
4 ceding insurers to any member of the group
5 pursuant to reinsurance contracts issued in the
6 name of the group;

7 (iv) in addition, maintain a joint trusteed
8 surplus of which not less than \$100,000,000 shall
9 be held jointly for the benefit of the United
10 States ceding insurers of any member of the group
11 as additional security for these liabilities; and

12 (v) within 90 days after its financial
13 statements are due to be filed with the group's
14 domiciliary regulator, make available to the
15 Director an annual certification of each
16 underwriter member's solvency by the member's
17 domiciliary regulator and financial statements of
18 each underwriter member of the group prepared by
19 its independent public accountant.

20 (C-5) Credit shall be allowed when the reinsurance is
21 ceded to an assuming insurer that has been certified by
22 the Director as a reinsurer in this State and secures its
23 obligations in accordance with the requirements of this
24 paragraph (C-5).

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

1 requirements:

2 (a) the assuming insurer must be domiciled and
3 licensed to transact insurance or reinsurance in a
4 qualified jurisdiction, as determined by the
5 Director pursuant to subparagraph (3) of this
6 paragraph (C-5);

7 (b) the assuming insurer must maintain minimum
8 capital and surplus, or its equivalent, in an
9 amount not less than \$250,000,000 or such greater
10 amount as determined by the Director pursuant to
11 regulation; this requirement may also be satisfied
12 by an association, including incorporated and
13 individual unincorporated underwriters, having
14 minimum capital and surplus equivalents (net of
15 liabilities) of at least \$250,000,000 and a
16 central fund containing a balance of at least
17 \$250,000,000;

18 (c) the assuming insurer must maintain
19 financial strength ratings from 2 or more rating
20 agencies deemed acceptable by the Director; these
21 ratings shall be based on interactive
22 communication between the rating agency and the
23 assuming insurer and shall not be based solely on
24 publicly available information; each certified
25 reinsurer shall be rated on a legal entity basis,
26 with due consideration being given to the group

1 rating where appropriate, except that an
2 association, including incorporated and individual
3 unincorporated underwriters, that has been
4 approved to do business as a single certified
5 reinsurer may be evaluated on the basis of its
6 group rating; these financial strength ratings
7 shall be one factor used by the Director in
8 determining the rating that is assigned to the
9 assuming insurer; acceptable rating agencies
10 include the following:

11 (i) Standard & Poor's;

12 (ii) Moody's Investors Service;

13 (iii) Fitch Ratings;

14 (iv) A.M. Best Company; or

15 (v) any other nationally recognized
16 statistical rating organization;

17 (d) the assuming insurer must agree to submit
18 to the jurisdiction of this State, appoint the
19 Director as its agent for service of process in
20 this State, and agree to provide security for 100%
21 of the assuming insurer's liabilities attributable
22 to reinsurance ceded by U.S. ceding insurers if it
23 resists enforcement of a final U.S. judgment; and

24 (e) the assuming insurer must agree to meet
25 applicable information filing requirements as
26 determined by the Director, both with respect to

1 association's domiciliary regulator, the
2 association shall provide to the Director an
3 annual certification by the association's
4 domiciliary regulator of the solvency of each
5 underwriter member; or if a certification is
6 unavailable, financial statements, prepared by
7 independent public accountants, of each
8 underwriter member of the association.

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

14 (a) In order to determine whether the
15 domiciliary jurisdiction of a non-U.S. assuming
16 insurer is eligible to be recognized as a
17 qualified jurisdiction, the Director shall
18 evaluate the appropriateness and effectiveness of
19 the reinsurance supervisory system of the
20 jurisdiction, both initially and on an ongoing
21 basis, and consider the rights, benefits, and
22 extent of reciprocal recognition afforded by the
23 non-U.S. jurisdiction to reinsurers licensed and
24 domiciled in the U.S. A qualified jurisdiction
25 must agree in writing to share information and
26 cooperate with the Director with respect to all

1 certified reinsurers domiciled within that
2 jurisdiction. A jurisdiction may not be recognized
3 as a qualified jurisdiction if the Director has
4 determined that the jurisdiction does not
5 adequately and promptly enforce final U.S.
6 judgments and arbitration awards. The costs and
7 expenses associated with the Director's review and
8 evaluation of the domiciliary jurisdictions of
9 non-U.S. assuming insurers shall be borne by the
10 certified reinsurer or reinsurers domiciled in
11 such jurisdiction.

12 (b) Additional factors to be considered in
13 determining whether to recognize a qualified
14 jurisdiction include, but are not limited to, the
15 following:

16 (i) the framework under which the assuming
17 insurer is regulated;

18 (ii) the structure and authority of the
19 domiciliary regulator with regard to solvency
20 regulation requirements and financial
21 surveillance;

22 (iii) the substance of financial and
23 operating standards for assuming insurers in
24 the domiciliary jurisdiction;

25 (iv) the form and substance of financial
26 reports required to be filed or made publicly

1 available by reinsurers in the domiciliary
2 jurisdiction and the accounting principles
3 used;

4 (v) the domiciliary regulator's
5 willingness to cooperate with U.S. regulators
6 in general and the Director in particular;

7 (vi) the history of performance by
8 assuming insurers in the domiciliary
9 jurisdiction;

10 (vii) any documented evidence of
11 substantial problems with the enforcement of
12 final U.S. judgments in the domiciliary
13 jurisdiction; and

14 (viii) any relevant international
15 standards or guidance with respect to mutual
16 recognition of reinsurance supervision adopted
17 by the International Association of Insurance
18 Supervisors or its successor organization.

19 (c) If, upon conducting an evaluation under
20 this paragraph with respect to the reinsurance
21 supervisory system of any non-U.S. assuming
22 insurer, the Director determines that the
23 jurisdiction qualifies to be recognized as a
24 qualified jurisdiction, the Director shall publish
25 notice and evidence of such recognition in an
26 appropriate manner. The Director may establish a

1 procedure to withdraw recognition of those
2 jurisdictions that are no longer qualified.

3 (d) The Director shall consider the list of
4 qualified jurisdictions through the NAIC committee
5 process in determining qualified jurisdictions. If
6 the Director approves a jurisdiction as qualified
7 that does not appear on the list of qualified
8 jurisdictions, then the Director shall provide
9 thoroughly documented justification in accordance
10 with criteria to be developed under regulations.

11 (e) U.S. jurisdictions that meet the
12 requirement for accreditation under the NAIC
13 financial standards and accreditation program
14 shall be recognized as qualified jurisdictions.

15 (f) If a certified reinsurer's domiciliary
16 jurisdiction ceases to be a qualified
17 jurisdiction, then the Director may suspend the
18 reinsurer's certification indefinitely, in lieu of
19 revocation.

20 (4) If an applicant for certification has been
21 certified as a reinsurer in an NAIC accredited
22 jurisdiction, then the Director may defer to that
23 jurisdiction's certification and to the rating
24 assigned by that jurisdiction if the assuming insurer
25 submits a properly executed Form CR-1 and such
26 additional information as the Director requires. Such

1 assuming insurer shall be considered to be a certified
2 reinsurer in this State but only upon the Director's
3 assignment of an Illinois rating, which shall be made
4 based on the requirements of subparagraph (5) of this
5 paragraph (C-5). The following shall apply:

6 (a) Any change in the certified reinsurer's
7 status or rating in the other jurisdiction shall
8 apply automatically in Illinois as of the date it
9 takes effect in the other jurisdiction. The
10 certified reinsurer shall notify the Director of
11 any change in its status or rating within 10 days
12 after receiving notice of the change.

13 (b) The Director may withdraw recognition of
14 the other jurisdiction's rating at any time and
15 assign a new rating in accordance with
16 subparagraph (5) of this paragraph (C-5).

17 (c) The Director may withdraw recognition of
18 the other jurisdiction's certification at any time
19 with written notice to the certified reinsurer.
20 Unless the Director suspends or revokes the
21 certified reinsurer's certification in accordance
22 with item (c) of subparagraph (9) of this
23 paragraph (C-5), the certified reinsurer's
24 certification shall remain in good standing in
25 Illinois for a period of 3 months, which shall be
26 extended if additional time is necessary to

1 corresponds to the third-highest level of
2 rating or group of ratings given by a rating
3 agency, including, but not limited to, A.M.
4 Best Company rating A; Standard & Poor's
5 ratings A+ or A; Moody's Investors Service
6 ratings A1 or A2; and Fitch Ratings ratings A+
7 or A.

8 (iv) Ratings Category "Secure - 4"
9 corresponds to the fourth-highest level of
10 rating or group of ratings given by a rating
11 agency, including, but not limited to, A.M.
12 Best Company rating A-; Standard & Poor's
13 rating A-; Moody's Investors Service rating
14 A3; and Fitch Ratings rating A-.

15 (v) Ratings Category "Secure - 5"
16 corresponds to the fifth-highest level of
17 rating or group of ratings given by a rating
18 agency, including, but not limited to, A.M.
19 Best Company ratings B++ or B+; Standard &
20 Poor's ratings BBB+, BBB, or BBB-; Moody's
21 Investors Service ratings Baa1, Baa2, or Baa3;
22 and Fitch Ratings ratings BBB+, BBB, or BBB-.

23 (vi) Ratings Category "Vulnerable - 6"
24 corresponds to a level of rating given by a
25 rating agency, other than those described in
26 subitems (i) through (v) of this item (a),

1 including, but not limited to, A.M. Best
2 Company rating B, B-, C++, C+, C, C-, D, E, or
3 F; Standard & Poor's ratings BB+, BB, BB-, B+,
4 B, B-, CCC, CC, C, D, or R; Moody's Investors
5 Service ratings Ba1, Ba2, Ba3, B1, B2, B3,
6 Caa, Ca, or C; and Fitch Ratings ratings BB+,
7 BB, BB-, B+, B, B-, CCC+, CCC, CCC-, or D.

8 A failure to obtain or maintain at least 2
9 financial strength ratings from acceptable rating
10 agencies shall result in loss of eligibility for
11 certification.

12 (b) The business practices of the certified
13 reinsurer in dealing with its ceding insurers,
14 including its record of compliance with
15 reinsurance contractual terms and obligations.

16 (c) For certified reinsurers domiciled in the
17 U.S., a review of the most recent applicable NAIC
18 Annual Statement Blank, either Schedule F (for
19 property and casualty reinsurers) or Schedule S
20 (for life and health reinsurers).

21 (d) For certified reinsurers not domiciled in
22 the U.S., a review annually of Form CR-F (for
23 property and casualty reinsurers) or Form CR-S
24 (for life and health reinsurers).

25 (e) The reputation of the certified reinsurer
26 for prompt payment of claims under reinsurance

1 agreements, based on an analysis of ceding
2 insurers' Schedule F reporting of overdue
3 reinsurance recoverables, including the proportion
4 of obligations that are more than 90 days past due
5 or are in dispute, with specific attention given
6 to obligations payable to companies that are in
7 administrative supervision or receivership.

8 (f) Regulatory actions against the certified
9 reinsurer.

10 (g) The report of the independent auditor on
11 the financial statements of the insurance
12 enterprise, on the basis described in item (h) of
13 this subparagraph (5).

14 (h) For certified reinsurers not domiciled in
15 the U.S., audited financial statements (audited
16 Generally Accepted Accounting Principles (U.S.
17 GAAP) basis statement if available, audited
18 International Financial Reporting Standards (IFRS)
19 basis statements are allowed but must include an
20 audited footnote reconciling equity and net income
21 to U.S. GAAP basis or, with the permission of the
22 Director, audited IFRS basis statements with
23 reconciliation to U.S. GAAP basis certified by an
24 officer of the company), regulatory filings, and
25 actuarial opinion (as filed with the non-U.S.
26 jurisdiction supervisor). Upon the initial

1 application for certification, the Director shall
2 consider the audited financial statements filed
3 with its non-U.S. jurisdiction supervisor for the
4 3 years immediately preceding the date of the
5 initial application for certification.

6 (i) The liquidation priority of obligations to
7 a ceding insurer in the certified reinsurer's
8 domiciliary jurisdiction in the context of an
9 insolvency proceeding.

10 (j) A certified reinsurer's participation in
11 any solvent scheme of arrangement, or similar
12 procedure, that involves U.S. ceding insurers. The
13 Director shall receive prior notice from a
14 certified reinsurer that proposes participation by
15 the certified reinsurer in a solvent scheme of
16 arrangement.

17 The maximum rating that a certified reinsurer may
18 be assigned shall correspond to its financial strength
19 rating, which shall be determined according to
20 subitems (i) through (vi) of item (a) of this
21 subparagraph (5). The Director shall use the lowest
22 financial strength rating received from an acceptable
23 rating agency in establishing the maximum rating of a
24 certified reinsurer.

25 (6) Based on the analysis conducted under item (e)
26 of subparagraph (5) of this paragraph (C-5) of a

1 certified reinsurer's reputation for prompt payment of
2 claims, the Director may make appropriate adjustments
3 in the security the certified reinsurer is required to
4 post to protect its liabilities to U.S. ceding
5 insurers, provided that the Director shall, at a
6 minimum, increase the security the certified reinsurer
7 is required to post by one rating level under item (a)
8 of subparagraph (8) of this paragraph (C-5) if the
9 Director finds that:

10 (a) more than 15% of the certified reinsurer's
11 ceding insurance clients have overdue reinsurance
12 recoverables on paid losses of 90 days or more
13 that are not in dispute and that exceed \$100,000
14 for each cedent; or

15 (b) the aggregate amount of reinsurance
16 recoverables on paid losses that are not in
17 dispute that are overdue by 90 days or more
18 exceeds \$50,000,000.

19 (7) The Director shall post notice on the
20 Department's website promptly upon receipt of any
21 application for certification, including instructions
22 on how members of the public may respond to the
23 application. The Director may not take final action on
24 the application until at least 30 days after posting
25 the notice required by this subparagraph. The Director
26 shall publish a list of all certified reinsurers and

1 their ratings.

2 (8) A certified reinsurer shall secure obligations
3 assumed from U.S. ceding insurers under this
4 subsection (1) at a level consistent with its rating.

5 (a) The amount of security required in order
6 for full credit to be allowed shall correspond
7 with the applicable ratings category:

8 Secure - 1: 0%.

9 Secure - 2: 10%.

10 Secure - 3: 20%.

11 Secure - 4: 50%.

12 Secure - 5: 75%.

13 Vulnerable - 6: 100%.

14 (b) Nothing in this subparagraph (8) shall
15 prohibit the parties to a reinsurance agreement
16 from agreeing to provisions establishing security
17 requirements that exceed the minimum security
18 requirements established for certified reinsurers
19 under this Section.

20 (c) In order for a domestic ceding insurer to
21 qualify for full financial statement credit for
22 reinsurance ceded to a certified reinsurer, the
23 certified reinsurer shall maintain security in a
24 form acceptable to the Director and consistent
25 with the provisions of subsection (2) of this
26 Section, or in a multibeneficiary trust in

1 accordance with paragraph (C) of this subsection
2 (1), except as otherwise provided in this
3 subparagraph (8).

4 (d) If a certified reinsurer maintains a trust
5 to fully secure its obligations subject to
6 paragraph (C) of this subsection (1), and chooses
7 to secure its obligations incurred as a certified
8 reinsurer in the form of a multibeneficiary trust,
9 then the certified reinsurer shall maintain
10 separate trust accounts for its obligations
11 incurred under reinsurance agreements issued or
12 renewed as a certified reinsurer with reduced
13 security as permitted by this subsection or
14 comparable laws of other U.S. jurisdictions and
15 for its obligations subject to paragraph (C) of
16 this subsection (1). It shall be a condition to
17 the grant of certification under this paragraph
18 (C-5) that the certified reinsurer shall have
19 bound itself, by the language of the trust and
20 agreement with the Director with principal
21 regulatory oversight of each such trust account,
22 to fund, upon termination of any such trust
23 account, out of the remaining surplus of such
24 trust any deficiency of any other such trust
25 account. The certified reinsurer shall also
26 provide or make available, if requested by a

1 beneficiary under a trust, all the information
2 that is required to be provided under the
3 requirements of item (d) of subparagraph (2) of
4 paragraph (C) of this subsection (1) to the
5 certified reinsurer's U.S. ceding insurers or
6 their assigns and successors in interest. The
7 assuming insurer may decline to release trade
8 secrets or commercially sensitive information that
9 would qualify as exempt from disclosure under the
10 Freedom of Information Act.

11 (e) The minimum trusteed surplus requirements
12 provided in paragraph (C) of this subsection (1)
13 are not applicable with respect to a
14 multibeneficiary trust maintained by a certified
15 reinsurer for the purpose of securing obligations
16 incurred under this subsection, except that such
17 trust shall maintain a minimum trusteed surplus of
18 \$10,000,000.

19 (f) With respect to obligations incurred by a
20 certified reinsurer under this subsection (1), if
21 the security is insufficient, then the Director
22 may reduce the allowable credit by an amount
23 proportionate to the deficiency and may impose
24 further reductions in allowable credit upon
25 finding that there is a material risk that the
26 certified reinsurer's obligations will not be paid

1 in full when due.

2 (9) (a) In the case of a downgrade by a rating
3 agency or other disqualifying circumstance, the
4 Director shall by written notice assign a new rating
5 to the certified reinsurer in accordance with the
6 requirements of subparagraph (5) of this paragraph
7 (C-5).

8 (b) If the rating of a certified reinsurer is
9 upgraded by the Director, then the certified reinsurer
10 may meet the security requirements applicable to its
11 new rating on a prospective basis, but the Director
12 shall require the certified reinsurer to post security
13 under the previously applicable security requirements
14 as to all contracts in force on or before the effective
15 date of the upgraded rating. If the rating of a
16 certified reinsurer is downgraded by the Director,
17 then the Director shall require the certified
18 reinsurer to meet the security requirements applicable
19 to its new rating for all business it has assumed as a
20 certified reinsurer.

21 (c) The Director may suspend, revoke, or otherwise
22 modify a certified reinsurer's certification at any
23 time if the certified reinsurer fails to meet its
24 obligations or security requirements under this
25 Section or if other financial or operating results of
26 the certified reinsurer, or documented significant

1 delays in payment by the certified reinsurer, lead the
2 Director to reconsider the certified reinsurer's
3 ability or willingness to meet its contractual
4 obligations. In seeking to suspend, revoke, or
5 otherwise modify a certified reinsurer's
6 certification, the Director shall follow the
7 procedures provided in paragraph (G) of this
8 subsection (1).

9 (d) For purposes of this subsection (1), a
10 certified reinsurer whose certification has been
11 terminated for any reason shall be treated as a
12 certified reinsurer required to secure 100% of its
13 obligations.

14 (i) As used in this item (d), the term
15 "terminated" refers to revocation, suspension,
16 voluntary surrender and inactive status.

17 (ii) If the Director continues to assign a
18 higher rating as permitted by other provisions of
19 this Section, then this requirement does not apply
20 to a certified reinsurer in inactive status or to
21 a reinsurer whose certification has been
22 suspended.

23 (e) Upon revocation of the certification of a
24 certified reinsurer by the Director, the assuming
25 insurer shall be required to post security in
26 accordance with subsection (2) of this Section in

1 order for the ceding insurer to continue to take
2 credit for reinsurance ceded to the assuming insurer.
3 If funds continue to be held in trust, then the
4 Director may allow additional credit equal to the
5 ceding insurer's pro rata share of the funds,
6 discounted to reflect the risk of uncollectibility and
7 anticipated expenses of trust administration.

8 (f) Notwithstanding the change of a certified
9 reinsurer's rating or revocation of its certification,
10 a domestic insurer that has ceded reinsurance to that
11 certified reinsurer may not be denied credit for
12 reinsurance for a period of 3 months for all
13 reinsurance ceded to that certified reinsurer, unless
14 the reinsurance is found by the Director to be at high
15 risk of uncollectibility.

16 (10) A certified reinsurer that ceases to assume
17 new business in this State may request to maintain its
18 certification in inactive status in order to continue
19 to qualify for a reduction in security for its
20 in-force business. An inactive certified reinsurer
21 shall continue to comply with all applicable
22 requirements of this subsection (1), and the Director
23 shall assign a rating that takes into account, if
24 relevant, the reasons why the reinsurer is not
25 assuming new business.

26 (11) Credit for reinsurance under this paragraph

1 (C-5) shall apply only to reinsurance contracts
2 entered into or renewed on or after the effective date
3 of the certification of the assuming insurer.

4 (12) The Director shall comply with all reporting
5 and notification requirements that may be established
6 by the NAIC with respect to certified reinsurers and
7 qualified jurisdictions.

8 (C-10) (1) Credit shall be allowed when the reinsurance
9 is ceded to an assuming insurer meeting each of the
10 conditions set forth in this subparagraph.

11 (a) The assuming insurer must have its head office
12 in or be domiciled in, as applicable, and be licensed
13 in a reciprocal jurisdiction. As used in this
14 paragraph (C-10), "reciprocal jurisdiction" means a
15 jurisdiction that meets one of the following:

16 (i) a non-U.S. jurisdiction that is subject to
17 an in-force covered agreement with the United
18 States, each within its legal authority, or, in
19 the case of a covered agreement between the United
20 States and European Union, is a member state of
21 the European Union; as used in this subitem,
22 "covered agreement" means an agreement entered
23 into pursuant to the Dodd-Frank Wall Street Reform
24 and Consumer Protection Act (31 U.S.C. 313 and
25 314) that is currently in effect or in a period of
26 provisional application and addresses the

1 elimination, under specified conditions, of
2 collateral requirements as a condition for
3 entering into any reinsurance agreement with a
4 ceding insurer domiciled in this State or for
5 allowing the ceding insurer to recognize credit
6 for reinsurance;

7 (ii) a U.S. jurisdiction that meets the
8 requirements for accreditation under the NAIC
9 financial standards and accreditation program; or

10 (iii) a qualified jurisdiction, as determined
11 by the Director pursuant to subparagraph (3) of
12 paragraph (C-5) of subsection (1) of this Section,
13 that is not otherwise described in subitem (i) or
14 (ii) of this item and that meets certain
15 additional requirements, consistent with the terms
16 and conditions of in-force covered agreements, as
17 specified by the Department by rule.

18 (b) The assuming insurer must have and maintain,
19 on an ongoing basis, minimum capital and surplus, or
20 its equivalent, calculated according to the
21 methodology of its domiciliary jurisdiction, in an
22 amount to be set forth by rule. If the assuming insurer
23 is an association, including incorporated and
24 individual unincorporated underwriters, it must have
25 and maintain, on an ongoing basis, minimum capital and
26 surplus equivalents (net of liabilities) calculated

1 according to the methodology applicable in its
2 domiciliary jurisdiction and a central fund containing
3 a balance in amounts to be set forth by rule.

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

14 (d) The assuming insurer must provide adequate
15 assurance to the Director, in a form specified by the
16 Department by rule, as follows:

17 (i) the assuming insurer must provide prompt
18 written notice and explanation to the Director if
19 it falls below the minimum requirements set forth
20 in items (b) or (c) of this subparagraph or if any
21 regulatory action is taken against it for serious
22 noncompliance with applicable law;

23 (ii) the assuming insurer must consent in
24 writing to the jurisdiction of the courts of this
25 State and to the appointment of the Director as
26 agent for service of process; the Director may

1 require that consent for service of process be
2 provided to the Director and included in each
3 reinsurance agreement; nothing in this subitem
4 (ii) shall limit or in any way alter the capacity
5 of parties to a reinsurance agreement to agree to
6 alternative dispute resolution mechanisms, except
7 to the extent such agreements are unenforceable
8 under applicable insolvency or delinquency laws;

9 (iii) the assuming insurer must consent in
10 writing to pay all final judgments obtained by a
11 ceding insurer or its legal successor, whenever
12 enforcement is sought, that have been declared
13 enforceable in the jurisdiction where the judgment
14 was obtained;

15 (iv) each reinsurance agreement must include a
16 provision requiring the assuming insurer to
17 provide security in an amount equal to 100% of the
18 assuming insurer's liabilities attributable to
19 reinsurance ceded pursuant to that agreement if
20 the assuming insurer resists enforcement of a
21 final judgment that is enforceable under the law
22 of the jurisdiction in which it was obtained or a
23 properly enforceable arbitration award, whether
24 obtained by the ceding insurer or by its legal
25 successor on behalf of its resolution estate; and

26 (v) the assuming insurer must confirm that it

1 is not presently participating in any solvent
2 scheme of arrangement which involves this State's
3 ceding insurers and agree to notify the ceding
4 insurer and the Director and to provide security
5 in an amount equal to 100% of the assuming
6 insurer's liabilities to the ceding insurer if the
7 assuming insurer enters into such a solvent scheme
8 of arrangement; the security shall be in a form
9 consistent with the provisions of paragraph (C-5)
10 of subsection (1) and subsection (2) and as
11 specified by the Department by rule.

12 (e) If requested by the Director, the assuming
13 insurer or its legal successor must provide, on behalf
14 of itself and any legal predecessors, certain
15 documentation to the Director, as specified by the
16 Department by rule.

17 (f) The assuming insurer must maintain a practice
18 of prompt payment of claims under reinsurance
19 agreements pursuant to criteria set forth by rule.

20 (g) The assuming insurer's supervisory authority
21 must confirm to the Director on an annual basis, as of
22 the preceding December 31 or at the annual date
23 otherwise statutorily reported to the reciprocal
24 jurisdiction, that the assuming insurer complied with
25 the requirements set forth in items (b) and (c) of this
26 subparagraph.

1 (h) Nothing in this subparagraph precludes an
2 assuming insurer from providing the Director with
3 information on a voluntary basis.

4 (2) The Director shall timely create and publish a
5 list of reciprocal jurisdictions.

6 (a) The Director's list shall include any
7 reciprocal jurisdiction as defined under subitems (i)
8 and (ii) of item (a) of subparagraph (1) of this
9 paragraph, and shall consider any other reciprocal
10 jurisdiction included on the list of reciprocal
11 jurisdictions published through the NAIC committee
12 process. The Director may approve a jurisdiction that
13 does not appear on the NAIC list of reciprocal
14 jurisdictions in accordance with criteria to be
15 developed by rules adopted by the Department.

16 (b) The Director may remove a jurisdiction from
17 the list of reciprocal jurisdictions upon a
18 determination that the jurisdiction no longer meets
19 the requirements of a reciprocal jurisdiction in
20 accordance with a process set forth in rules adopted
21 by the Department, except that the Director shall not
22 remove from the list a reciprocal jurisdiction as
23 defined under subitems (i) and (ii) of item (a) of
24 subparagraph (1) of this paragraph. If otherwise
25 allowed pursuant to this Section, credit for
26 reinsurance ceded to an assuming insurer that has its

1 home office or is domiciled in that jurisdiction shall
2 be allowed upon removal of a reciprocal jurisdiction
3 from this list.

4 (3) The Director shall timely create and publish a
5 list of assuming insurers that have satisfied the
6 conditions set forth in this paragraph and to which
7 cessions shall be granted credit in accordance with this
8 paragraph. The Director may add an assuming insurer to the
9 list if a NAIC-accredited jurisdiction has added the
10 assuming insurer to a list of assuming insurers or if,
11 upon initial eligibility, the assuming insurer submits the
12 information to the Director as required under item (d) of
13 subparagraph (1) of this paragraph and complies with any
14 additional requirements that the Department may impose by
15 rule except to the extent that they conflict with an
16 applicable covered agreement.

17 (4) If the Director determines that an assuming
18 insurer no longer meets one or more of the requirements
19 under this paragraph, the Director may revoke or suspend
20 the eligibility of the assuming insurer for recognition
21 under this paragraph in accordance with procedures set
22 forth by rule.

23 (a) While an assuming insurer's eligibility is
24 suspended, no reinsurance agreement issued, amended,
25 or renewed after the effective date of the suspension
26 qualifies for credit except to the extent that the

1 assuming insurer's obligations under the contract are
2 secured in accordance with subsection (2).

3 (b) If an assuming insurer's eligibility is
4 revoked, no credit for reinsurance may be granted
5 after the effective date of the revocation with
6 respect to any reinsurance agreements entered into by
7 the assuming insurer, including reinsurance agreements
8 entered into before the date of revocation, except to
9 the extent that the assuming insurer's obligations
10 under the contract are secured in a form acceptable to
11 the Director and consistent with the provisions of
12 subsection (2).

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

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

26 (7) Credit may be taken under this paragraph only for

1 reinsurance agreements entered into, amended, or renewed
2 on or after the effective date of this amendatory Act of
3 the 102nd General Assembly and only with respect to losses
4 incurred and reserves reported on or after the later of:

5 (i) the date on which the assuming insurer has met
6 all eligibility requirements pursuant to subparagraph
7 (1) of this paragraph; and

8 (ii) the effective date of the new reinsurance
9 agreement, amendment, or renewal.

10 This subparagraph does not alter or impair a ceding
11 insurer's right to take credit for reinsurance, to the
12 extent that credit is not available under this paragraph,
13 as long as the reinsurance qualifies for credit under any
14 other applicable provision of this Section.

15 (8) Nothing in this paragraph shall authorize an
16 assuming insurer to withdraw or reduce the security
17 provided under any reinsurance agreement except as
18 permitted by the terms of the agreement.

19 (9) Nothing in this paragraph shall limit or in any
20 way alter the capacity of parties to any reinsurance
21 agreement to renegotiate the agreement.

22 (D) Credit shall be allowed when the reinsurance is
23 ceded to an assuming insurer not meeting the requirements
24 of paragraph (A), (B), (B-5), ~~or~~ (C), (C-5), or (C-10) of
25 this subsection (1) but only with respect to the insurance
26 of risks located in jurisdictions where that reinsurance

1 is required by applicable law or regulation of that
2 jurisdiction.

3 (E) If the assuming insurer is not licensed to
4 transact insurance in this State or an accredited or
5 certified reinsurer in this State, the credit permitted by
6 paragraphs (B-5) and (C) of this subsection (1) shall not
7 be allowed unless the assuming insurer agrees in the
8 reinsurance agreements:

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

19 (2) to designate the Director or a designated
20 attorney as its true and lawful attorney upon whom may
21 be served any lawful process in any action, suit, or
22 proceeding instituted by or on behalf of the ceding
23 company.

24 This provision is not intended to conflict with or
25 override the obligation of the parties to a reinsurance
26 agreement to arbitrate their disputes, if an obligation to

1 arbitrate is created in the agreement.

2 (F) If the assuming insurer does not meet the
3 requirements of paragraph (A), ~~or (B)~~, (B-5), or (C-10) of
4 this subsection (1), the credit permitted by paragraph (C)
5 or (C-5) of this subsection (1) shall not be allowed
6 unless the assuming insurer agrees in the trust agreements
7 to the following conditions:

8 (1) Notwithstanding any other provisions in the
9 trust instrument, if the trust fund is inadequate
10 because it contains an amount less than the amount
11 required by subparagraph (3) of paragraph (C) of this
12 subsection (1) or if the grantor of the trust has been
13 declared insolvent or placed into receivership,
14 rehabilitation, liquidation, or similar proceedings
15 under the laws of its state or country of domicile, the
16 trustee shall comply with an order of the state
17 official with regulatory oversight over the trust or
18 with an order of a court of competent jurisdiction
19 directing the trustee to transfer to the state
20 official with regulatory oversight all of the assets
21 of the trust fund.

22 (2) The assets shall be distributed by and claims
23 shall be filed with and valued by the state official
24 with regulatory oversight in accordance with the laws
25 of the state in which the trust is domiciled that are
26 applicable to the liquidation of domestic insurance

1 companies.

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

10 (4) The grantor shall waive any rights otherwise
11 available to it under U.S. law that are inconsistent
12 with the provision.

13 (G) If an accredited or certified reinsurer ceases to
14 meet the requirements for accreditation or certification,
15 then the Director may suspend or revoke the reinsurer's
16 accreditation or certification.

17 (1) The Director must give the reinsurer notice
18 and opportunity for hearing. The suspension or
19 revocation may not take effect until after the
20 Director's order on hearing, unless:

21 (a) the reinsurer waives its right to hearing;

22 (b) the Director's order is based on
23 regulatory action by the reinsurer's domiciliary
24 jurisdiction or the voluntary surrender or
25 termination of the reinsurer's eligibility to
26 transact insurance or reinsurance business in its

1 domiciliary jurisdiction or in the primary
2 certifying state of the reinsurer under
3 subparagraph (4) of paragraph (C-5) of this
4 subsection (1); or

5 (c) the Director finds that an emergency
6 requires immediate action and a court of competent
7 jurisdiction has not stayed the Director's action.

8 (2) While a reinsurer's accreditation or
9 certification is suspended, no reinsurance contract
10 issued or renewed after the effective date of the
11 suspension qualifies for credit except to the extent
12 that the reinsurer's obligations under the contract
13 are secured in accordance with subsection (2) of this
14 Section. If a reinsurer's accreditation or
15 certification is revoked, no credit for reinsurance
16 may be granted after the effective date of the
17 revocation, except to the extent that the reinsurer's
18 obligations under the contract are secured in
19 accordance with subsection (2) of this Section.

20 (H) The following provisions shall apply concerning
21 concentration of risk:

22 (1) A ceding insurer shall take steps to manage
23 its reinsurance recoverable proportionate to its own
24 book of business. A domestic ceding insurer shall
25 notify the Director within 30 days after reinsurance
26 recoverables from any single assuming insurer, or

1 group of affiliated assuming insurers, exceeds 50% of
2 the domestic ceding insurer's last reported surplus to
3 policyholders, or after it is determined that
4 reinsurance recoverables from any single assuming
5 insurer, or group of affiliated assuming insurers, is
6 likely to exceed this limit. The notification shall
7 demonstrate that the exposure is safely managed by the
8 domestic ceding insurer.

9 (2) A ceding insurer shall take steps to diversify
10 its reinsurance program. A domestic ceding insurer
11 shall notify the Director within 30 days after ceding
12 to any single assuming insurer, or group of affiliated
13 assuming insurers, more than 20% of the ceding
14 insurer's gross written premium in the prior calendar
15 year, or after it has determined that the reinsurance
16 ceded to any single assuming insurer, or group of
17 affiliated assuming insurers, is likely to exceed this
18 limit. The notification shall demonstrate that the
19 exposure is safely managed by the domestic ceding
20 insurer.

21 (2) Credit for the reinsurance ceded by a domestic insurer
22 to an assuming insurer not meeting the requirements of
23 subsection (1) of this Section shall be allowed in an amount
24 not exceeding the assets or liabilities carried by the ceding
25 insurer. The credit shall not exceed the amount of funds held
26 by or held in trust for the ceding insurer under a reinsurance

1 contract with the assuming insurer as security for the payment
2 of obligations thereunder, if the security is held in the
3 United States subject to withdrawal solely by, and under the
4 exclusive control of, the ceding insurer; or, in the case of a
5 trust, held in a qualified United States financial
6 institution, as defined in paragraph (B) of subsection (3) of
7 this Section. This security may be in the form of:

8 (A) Cash.

9 (B) Securities listed by the Securities Valuation
10 Office of the National Association of Insurance
11 Commissioners, including those deemed exempt from filing
12 as defined by the Purposes and Procedures Manual of the
13 Securities Valuation Office that conform to the
14 requirements of Article VIII of this Code that are not
15 issued by an affiliate of either the assuming or ceding
16 company.

17 (C) Clean, irrevocable, unconditional, letters of
18 credit issued or confirmed by a qualified United States
19 financial institution, as defined in paragraph (A) of
20 subsection (3) of this Section. The letters of credit
21 shall be effective no later than December 31 of the year
22 for which filing is being made, and in the possession of,
23 or in trust for, the ceding company on or before the filing
24 date of its annual statement. Letters of credit meeting
25 applicable standards of issuer acceptability as of the
26 dates of their issuance (or confirmation) shall,

1 notwithstanding the issuing (or confirming) institution's
2 subsequent failure to meet applicable standards of issuer
3 acceptability, continue to be acceptable as security until
4 their expiration, extension, renewal, modification, or
5 amendment, whichever first occurs.

6 (D) Any other form of security acceptable to the
7 Director.

8 (3) (A) For purposes of paragraph (C) of subsection (2) of
9 this Section, a "qualified United States financial
10 institution" means an institution that:

11 (1) is organized or, in the case of a U.S. office of a
12 foreign banking organization, licensed under the laws of
13 the United States or any state thereof;

14 (2) is regulated, supervised, and examined by U.S.
15 federal or state authorities having regulatory authority
16 over banks and trust companies;

17 (3) has been designated by either the Director or the
18 Securities Valuation Office of the National Association of
19 Insurance Commissioners as meeting such standards of
20 financial condition and standing as are considered
21 necessary and appropriate to regulate the quality of
22 financial institutions whose letters of credit will be
23 acceptable to the Director; and

24 (4) is not affiliated with the assuming company.

25 (B) A "qualified United States financial institution"
26 means, for purposes of those provisions of this law specifying

1 those institutions that are eligible to act as a fiduciary of a
2 trust, an institution that:

3 (1) is organized or, in the case of the U.S. branch or
4 agency office of a foreign banking organization, licensed
5 under the laws of the United States or any state thereof
6 and has been granted authority to operate with fiduciary
7 powers;

8 (2) is regulated, supervised, and examined by federal
9 or state authorities having regulatory authority over
10 banks and trust companies; and

11 (3) is not affiliated with the assuming company,
12 however, if the subject of the reinsurance contract is
13 insurance written pursuant to Section 155.51 of this Code,
14 the financial institution may be affiliated with the
15 assuming company with the prior approval of the Director.

16 (C) Except as set forth in subparagraph (11) of paragraph
17 (C-5) of subsection (1) of this Section as to cessions by
18 certified reinsurers, this amendatory Act of the 100th General
19 Assembly shall apply to all cessions after the effective date
20 of this amendatory Act of the 100th General Assembly under
21 reinsurance agreements that have an inception, anniversary, or
22 renewal date not less than 6 months after the effective date of
23 this amendatory Act of the 100th General Assembly.

24 (D) The Department shall adopt rules implementing the
25 provisions of this Article.

26 (Source: P.A. 100-1118, eff. 11-27-18.)

1 Section 99. Effective date. This Act takes effect December
2 31, 2022.

1 INDEX

2 Statutes amended in order of appearance

3 215 ILCS 5/35B-25

4 215 ILCS 5/131.1 from Ch. 73, par. 743.1

5 215 ILCS 5/131.5 from Ch. 73, par. 743.5

6 215 ILCS 5/131.14b

7 215 ILCS 5/131.15 from Ch. 73, par. 743.15

8 215 ILCS 5/131.22 from Ch. 73, par. 743.22

9 215 ILCS 5/131.22a new

10 215 ILCS 5/173.1 from Ch. 73, par. 785.1