



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB2864

Introduced 1/24/2012, by Sen. Antonio Muñoz

SYNOPSIS AS INTRODUCED:

215 ILCS 5/173.1

from Ch. 73, par. 785.1

Amends the Illinois Insurance Code in the provision concerning credit that is allowed a domestic ceding insurer. Includes additional provisions under which credit shall be allowed when the reinsurance is ceded to an assuming insurer domiciled in certain categories of states. Includes additional requirements to apply to certain categories of assuming insurers. Makes changes to the provision concerning the inception, amendment, and renewal dates of reinsurance agreements. Includes additional provisions under which credit shall be allowed when the reinsurance is ceded to an assuming insurer certified in the State. Sets forth provisions concerning the suspension and revocation of a reinsurer's accreditation or certification, the concentration of risk, and applicability to reinsurance agreements. Makes other changes.

LRB097 18029 RPM 63252 b

1 AN ACT concerning insurance.

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 Section 173.1 as follows:

6 (215 ILCS 5/173.1) (from Ch. 73, par. 785.1)

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

8 (1) Except as otherwise provided under Article VIII 1/2 of
9 this Code and related provisions of the Illinois Administrative
10 Code, credit for reinsurance shall be allowed a domestic ceding
11 insurer as either an admitted asset or a deduction from
12 liability on account of reinsurance ceded only when the
13 reinsurer meets the requirements of subdivision ~~subsection~~
14 (1) (A) or (B) or (B-5) or (C) or (C-5) or (D). Credit shall be
15 allowed under subdivision ~~subsection~~ (1) (A) or (B) or (B-5)
16 only as respects cessions of those kinds or classes of business
17 in which the assuming insurer is licensed or otherwise
18 permitted to write or assume in its state of domicile, or in
19 the case of a U.S. branch of an alien assuming insurer, in the
20 state through which it is entered and licensed to transact
21 insurance or reinsurance. Credit shall be allowed under
22 subdivision ~~subsection~~ (1) (B-5) or (C) of this Section only if
23 the applicable requirements of subdivision ~~subsection~~ (1) (E)

1 have been satisfied.

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

6 (B) Credit shall be allowed when the reinsurance is
7 ceded to an assuming insurer that is accredited as a
8 reinsurer in this State. An accredited reinsurer is one
9 that:

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

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

14 (3) is licensed to transact insurance or
15 reinsurance in at least one state, or in the case of a
16 U.S. branch of an alien assuming insurer is entered
17 through and licensed to transact insurance or
18 reinsurance in at least one state;

19 (4) files annually with the Director a copy of its
20 annual statement filed with the insurance department
21 of its state of domicile and a copy of its most recent
22 audited financial statement; and

23 (5) maintains a surplus as regards policyholders
24 in an amount that is not less than \$20,000,000 and
25 whose accreditation has been approved by the Director.
26 No credit shall be allowed a domestic ceding insurer,

1 if the assuming insurers' accreditation has been
2 revoked by the Director after notice and hearing.

3 (B-5) (1) Credit shall be allowed when the reinsurance
4 is ceded to an assuming insurer that is domiciled in,
5 or in the case of a U.S. branch of an alien assuming
6 insurer is entered through, a state that employs
7 standards regarding credit for reinsurance
8 substantially similar to those applicable under this
9 Code and the assuming insurer or U.S. branch of an
10 alien assuming insurer (a) maintains a surplus as
11 regards policyholders in an amount not less than
12 \$20,000,000 and (b) submits to the authority of this
13 State to examine its books and records.

14 (2) The requirement of subdivision (1) (B-5) (1) (a)
15 of this Section does not apply to reinsurance ceded and
16 assumed pursuant to pooling arrangements among
17 insurers in the same holding company system.

18 (C) (1) Credit shall be allowed when the reinsurance is
19 ceded to an assuming insurer that maintains a trust
20 fund in a qualified United States financial
21 institution, as defined in subsection 3(B), for the
22 payment of the valid claims of its United States
23 policyholders and ceding insurers, their assigns and
24 successors in interest. The assuming insurer shall
25 report to the Director information substantially the
26 same as that required to be reported on the NAIC annual

1 and quarterly financial statement by authorized
2 insurers and any other financial information that the
3 Director deems necessary to determine the financial
4 condition of the assuming insurer and the sufficiency
5 of the trust fund. The assuming insurer shall submit to
6 examination of its books and records by the Director
7 and bear the expense of examination.

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

11 (i) the regulatory official of the state where
12 the trust is domiciled; or

13 (ii) the regulatory official of another state
14 who, pursuant to the terms of the trust instrument,
15 has accepted principal regulatory oversight of the
16 trust.

17 (b) The form of the trust and any trust amendments
18 also shall be filed with the regulatory official of
19 every state in which the ceding insurer beneficiaries
20 of the trust are domiciled. The trust instrument shall
21 provide that contested claims shall be valid and
22 enforceable upon the final order of any court of
23 competent jurisdiction in the United States. The trust
24 shall vest legal title to its assets in its trustees
25 for the benefit of the assuming insurer's United States
26 policyholders and ceding insurees and their assigns

1 and successors in interest. The trust and the assuming
2 insurer shall be subject to examination as determined
3 by the Director.

4 (c) The trust shall remain in effect for as long as
5 the assuming insurer has outstanding obligations due
6 under the reinsurance agreements subject to the trust.
7 No later than February 28 of each year the trustee of
8 the trust shall report to the Director in writing the
9 balance of the trust and a list of the trust's
10 investments at the preceding year-end and shall
11 certify the date of termination of the trust, if so
12 planned, or certify that the trust will not expire
13 prior to the next following December 31.

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

16 (a) The trust fund for a single assuming
17 insurer shall consist of funds in trust in an
18 amount not less than the assuming insurer's
19 liabilities attributable to reinsurance ceded by
20 U.S. ceding insurers, and in addition, the
21 assuming insurer shall maintain a trusted surplus
22 of not less than \$20,000,000, except as provided in
23 subdivision (3) (a-5) of this paragraph (D).

24 (a-5) At any time after the assuming insurer
25 has permanently discontinued underwriting new
26 business secured by the trust for at least 3 full

1 years, the Director with principal regulatory
2 oversight of the trust may authorize a reduction in
3 the required trustee surplus, but only after a
4 finding, based on an assessment of the risk, that
5 the new required surplus level is adequate for the
6 protection of U.S. ceding insurers, policyholders,
7 and claimants in light of reasonably foreseeable
8 adverse loss development. The risk assessment may
9 involve an actuarial review, including an
10 independent analysis of reserves and cash flows,
11 and shall consider all material risk factors,
12 including, when applicable, the lines of business
13 involved, the stability of the incurred loss
14 estimates, and the effect of the surplus
15 requirements on the assuming insurer's liquidity
16 or solvency. The minimum required trustee surplus
17 may not be reduced to an amount less than 30% of
18 the assuming insurer's liabilities attributable to
19 reinsurance ceded by U.S. ceding insurers covered
20 by the trust.

21 (b) (i) In the case of a group including
22 incorporated and individual unincorporated
23 underwriters:

24 (I) for reinsurance ceded under
25 reinsurance agreements with an inception,
26 amendment, or renewal date on or after January

1 1, 1993 ~~August 1, 1995~~, the trust shall consist
2 of a trusted account in an amount not less
3 than the respective underwriters' ~~group's~~
4 several liabilities attributable to business
5 ceded by U.S. domiciled ceding insurers to any
6 member of the group;

7 (II) for reinsurance ceded under
8 reinsurance agreements with an inception date
9 on or before December 31, 1992 ~~July 31, 1995~~
10 and not amended or renewed after that date,
11 notwithstanding the other provisions of this
12 Act, the trust shall consist of a trusted
13 account in an amount not less than the group's
14 several insurance and reinsurance liabilities
15 attributable to business written in the United
16 States; and

17 (III) in addition to these trusts, the
18 group shall maintain in trust a trusted
19 surplus of which not less than \$100,000,000
20 shall be held jointly for the benefit of the
21 U.S. domiciled ceding insurers of any member of
22 the group for all years of account.

23 (ii) The incorporated members of the group
24 shall not be engaged in any business other than
25 underwriting as a member of the group and shall be
26 subject to the same level of solvency regulation

1 and control by the group's domiciliary regulator
2 as are the unincorporated members.

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

12 (c) In the case of a group of incorporated
13 insurers under common administration, the group
14 shall:

15 (i) have continuously transacted an
16 insurance business outside the United States
17 for at least 3 years immediately before making
18 application for accreditation;

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

21 (iii) maintain a trust in an amount not
22 less than the group's several liabilities
23 attributable to business ceded by United
24 States domiciled ceding insurers to any member
25 of the group pursuant to reinsurance contracts
26 issued in the name of the group;

1 (iv) in addition, maintain a joint
2 trusted surplus of which not less than
3 \$100,000,000 shall be held jointly for the
4 benefit of the United States ceding insurers of
5 any member of the group as additional security
6 for these liabilities; and

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

15 (C-5) Credit shall be allowed when the reinsurance is
16 ceded to an assuming insurer that has been certified by the
17 Director as a reinsurer in this State and secures its
18 obligations in accordance with the requirements of this
19 subsection.

20 (1) In order to be eligible for certification, the
21 assuming insurer shall meet the following
22 requirements:

23 (a) the assuming insurer must be domiciled and
24 licensed to transact insurance or reinsurance in a
25 qualified jurisdiction, as determined by the
26 Director pursuant to subparagraph (3) of this

1 paragraph;

2 (b) the assuming insurer must maintain minimum
3 capital and surplus, or its equivalent, in an
4 amount to be determined by the Director pursuant to
5 regulation;

6 (c) the assuming insurer must maintain
7 financial strength ratings from 2 or more rating
8 agencies deemed acceptable by the Director
9 pursuant to regulation;

10 (d) the assuming insurer must agree to submit
11 to the jurisdiction of this State, appoint the
12 Director as its agent for service of process in
13 this State, and agree to provide security for 100%
14 of the assuming insurer's liabilities attributable
15 to reinsurance ceded by U.S. ceding insurers if it
16 resists enforcement of a final U.S. judgment;

17 (e) the assuming insurer must agree to meet
18 applicable information filing requirements as
19 determined by the Director, both with respect to an
20 initial application for certification and on an
21 ongoing basis; and

22 (f) the assuming insurer must satisfy any
23 other requirements for certification deemed
24 relevant by the Director.

25 (2) An association, including incorporated and
26 individual unincorporated underwriters, may be a

1 certified reinsurer. In order to be eligible for
2 certification, in addition to satisfying the
3 requirements of subparagraph (1) of this paragraph
4 (C-5):

5 (a) the association shall satisfy its minimum
6 capital and surplus requirements through the
7 capital and surplus equivalents (net of
8 liabilities) of the association and its members,
9 which shall include a joint central fund that may
10 be applied to any unsatisfied obligation of the
11 association or any of its members, in an amount
12 determined by the Director to provide adequate
13 protection;

14 (b) the incorporated members of the
15 association shall not be engaged in any business
16 other than underwriting as a member of the
17 association and shall be subject to the same level
18 of regulation and solvency control by the
19 association's domiciliary regulator as are the
20 unincorporated members; and

21 (c) within 90 days after its financial
22 statements are due to be filed with the
23 association's domiciliary regulator, the
24 association shall provide to the Director an
25 annual certification by the association's
26 domiciliary regulator of the solvency of each

1 underwriter member; or if a certification is
2 unavailable, financial statements, prepared by
3 independent public accountants, of each
4 underwriter member of the association.

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

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

1 enforce final U.S. judgments and arbitration
2 awards. Additional factors may be considered in
3 the discretion of the Director.

4 (b) A list of qualified jurisdictions shall be
5 published through the NAIC Committee Process. The
6 Director shall consider this list in determining
7 qualified jurisdictions. If the Director approves
8 a jurisdiction as qualified that does not appear on
9 the list of qualified jurisdictions, then the
10 Director shall provide thoroughly documented
11 justification in accordance with criteria to be
12 developed under regulations.

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

17 (d) If a certified reinsurer's domiciliary
18 jurisdiction ceases to be a qualified
19 jurisdiction, then the Director has the discretion
20 to suspend the reinsurer's certification
21 indefinitely, in lieu of revocation.

22 (4) The Director shall assign a rating to each
23 certified reinsurer, giving due consideration to the
24 financial strength ratings that have been assigned by
25 rating agencies deemed acceptable to the Director
26 pursuant to regulation. The Director shall publish a

1 list of all certified reinsurers and their ratings.

2 (5) A certified reinsurer shall secure obligations
3 assumed from U.S. ceding insurers under this
4 subsection at a level consistent with its rating, as
5 specified in rules adopted by the Director.

6 (a) In order for a domestic ceding insurer to
7 qualify for full financial statement credit for
8 reinsurance ceded to a certified reinsurer, the
9 certified reinsurer shall maintain security in a
10 form acceptable to the Director and consistent
11 with the provisions of subparagraph (3) of this
12 paragraph (C-5), or in a multibeneficiary trust in
13 accordance with paragraph (C) of this subsection
14 (1), except as otherwise provided in this
15 subparagraph (5).

16 (b) If a certified reinsurer maintains a trust
17 to fully secure its obligations subject to
18 paragraph (C) of this subsection (1), and chooses
19 to secure its obligations incurred as a certified
20 reinsurer in the form of a multibeneficiary trust,
21 then the certified reinsurer shall maintain
22 separate trust accounts for its obligations
23 incurred under reinsurance agreements issued or
24 renewed as a certified reinsurer with reduced
25 security as permitted by this subsection or
26 comparable laws of other U.S. jurisdictions and

1 for its obligations subject to paragraph (C) of
2 this subsection (1). It shall be a condition to the
3 grant of certification under paragraph (C-5) of
4 this subsection (1) that the certified reinsurer
5 shall have bound itself, by the language of the
6 trust and agreement with the Director with
7 principal regulatory oversight of each such trust
8 account, to fund, upon termination of any such
9 trust account, out of the remaining surplus of such
10 trust any deficiency of any other such trust
11 account.

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

19 (d) With respect to obligations incurred by a
20 certified reinsurer under this subsection, if the
21 security is insufficient, then the Director shall
22 reduce the allowable credit by an amount
23 proportionate to the deficiency, and has the
24 discretion to impose further reductions in
25 allowable credit upon finding that there is a
26 material risk that the certified reinsurer's

1 obligations will not be paid in full when due.

2 (e) For purposes of this subsection, a
3 certified reinsurer whose certification has been
4 terminated for any reason shall be treated as a
5 certified reinsurer required to secure 100% of its
6 obligations.

7 (i) As used in this subsection, the term
8 "terminated" refers to revocation, suspension,
9 voluntary surrender and inactive status.

10 (ii) If the Director continues to assign a
11 higher rating as permitted by other provisions
12 of this Section, then this requirement does not
13 apply to a certified reinsurer in inactive
14 status or to a reinsurer whose certification
15 has been suspended.

16 (6) If an applicant for certification has been
17 certified as a reinsurer in an NAIC accredited
18 jurisdiction, then the Director has the discretion to
19 defer to that jurisdiction's certification, and has
20 the discretion to defer to the rating assigned by that
21 jurisdiction, and such assuming insurer shall be
22 considered to be a certified reinsurer in this State.

23 (7) A certified reinsurer that ceases to assume new
24 business in this State may request to maintain its
25 certification in inactive status in order to continue
26 to qualify for a reduction in security for its in-force

1 business. An inactive certified reinsurer shall
2 continue to comply with all applicable requirements of
3 this subsection, and the Director shall assign a rating
4 that takes into account, if relevant, the reasons why
5 the reinsurer is not assuming new business.

6 (D) Credit shall be allowed when the reinsurance is
7 ceded to an assuming insurer not meeting the requirements
8 of subsection (1) (A), (B), or (C) but only with respect to
9 the insurance of risks located in jurisdictions where that
10 reinsurance is required by applicable law or regulation of
11 that jurisdiction.

12 (E) If the assuming insurer is not licensed to transact
13 insurance in this State or an accredited reinsurer in this
14 State, the credit permitted by subdivision ~~subsection~~
15 (1) (B-5) and (C) shall not be allowed unless the assuming
16 insurer agrees in the reinsurance agreements:

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

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

6 This provision is not intended to conflict with or
7 override the obligation of the parties to a reinsurance
8 agreement to arbitrate their disputes, if an obligation to
9 arbitrate is created in the agreement.

10 (F) If the assuming insurer does not meet the
11 requirements of subsection (1)(A) or (B), the credit
12 permitted by subsection (1)(C) shall not be allowed unless
13 the assuming insurer agrees in the trust agreements to the
14 following conditions:

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

1 assets of the trust fund.

2 (2) The assets shall be distributed by and claims
3 shall be filed with and valued by the state official
4 with regulatory oversight in accordance with the laws
5 of the state in which the trust is domiciled that are
6 applicable to the liquidation of domestic insurance
7 companies.

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

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

19 (G) If an accredited or certified reinsurer ceases to
20 meet the requirements for accreditation or certification,
21 then the Director may suspend or revoke the reinsurer's
22 accreditation or certification.

23 (1) The Director must give the reinsurer notice and
24 opportunity for hearing. The suspension or revocation
25 may not take effect until after the Director's order on
26 hearing, unless:

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

2 (b) the Director's order is based on
3 regulatory action by the reinsurer's domiciliary
4 jurisdiction or the voluntary surrender or
5 termination of the reinsurer's eligibility to
6 transact insurance or reinsurance business in its
7 domiciliary jurisdiction or in the primary
8 certifying state of the reinsurer under
9 subdivision (C-5) (6) of this subsection; or

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

13 (2) While a reinsurer's accreditation or
14 certification is suspended, no reinsurance contract
15 issued or renewed after the effective date of the
16 suspension qualifies for credit except to the extent
17 that the reinsurer's obligations under the contract
18 are secured in accordance with Section 32 of this Code.
19 If a reinsurer's accreditation or certification is
20 revoked, no credit for reinsurance may be granted after
21 the effective date of the revocation except to the
22 extent that the reinsurer's obligations under the
23 contract are secured in accordance with subdivision
24 (C-5) (5) of this subsection or Section 32 of this Code.

25 (H) The following provisions shall apply concerning
26 concentration of risk:

1 (1) A ceding insurer shall take steps to manage its
2 reinsurance recoverable proportionate to its own book
3 of business. A domestic ceding insurer shall notify the
4 Director within 30 days after reinsurance recoverables
5 from any single assuming insurer, or group of
6 affiliated assuming insurers, exceeds 50% of the
7 domestic ceding insurer's last reported surplus to
8 policyholders, or after it is determined that
9 reinsurance recoverables from any single assuming
10 insurer, or group of affiliated assuming insurers, is
11 likely to exceed this limit. The notification shall
12 demonstrate that the exposure is safely managed by the
13 domestic ceding insurer.

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

26 (2) Credit for the reinsurance ceded by a domestic insurer

1 to an assuming insurer not meeting the requirements of
2 subsection (1) shall be allowed in an amount not exceeding the
3 assets or liabilities carried by the ceding insurer. The credit
4 shall not exceed the amount of funds held by or held in trust
5 for the ceding insurer under a reinsurance contract with the
6 assuming insurer as security for the payment of obligations
7 thereunder, if the security is held in the United States
8 subject to withdrawal solely by, and under the exclusive
9 control of, the ceding insurer; or, in the case of a trust,
10 held in a qualified United States financial institution, as
11 defined in subsection (3)(B). This security may be in the form
12 of:

13 (A) Cash.

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

21 (C) Clean, irrevocable, unconditional, letters of
22 credit issued or confirmed by a qualified United States
23 financial institution, as defined in subsection (3)(A).
24 The letters of credit shall be effective no later than
25 December 31 of the year for which filing is being made, and
26 in the possession of, or in trust for, the ceding company

1 on or before the filing date of its annual statement.
2 Letters of credit meeting applicable standards of issuer
3 acceptability as of the dates of their issuance (or
4 confirmation) shall, notwithstanding the issuing (or
5 confirming) institution's subsequent failure to meet
6 applicable standards of issuer acceptability, continue to
7 be acceptable as security until their expiration,
8 extension, renewal, modification, or amendment, whichever
9 first occurs.

10 (D) Any other form of security acceptable to the
11 Director.

12 (3) (A) For purposes of subsection 2(C), a "qualified United
13 States financial institution" means an institution that:

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

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

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

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

2 (B) A "qualified United States financial institution"
3 means, for purposes of those provisions of this law
4 specifying those institutions that are eligible to act as a
5 fiduciary of a trust, an institution that:

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

11 (2) is regulated, supervised, and examined by
12 federal or state authorities having regulatory
13 authority over banks and trust companies; and

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

20 (C) The Director may adopt rules implementing the
21 provisions of this law.

22 (D) This amendatory Act of the 97th General Assembly
23 shall apply to all sessions after the effective date of
24 this amendatory Act of the 97th General Assembly under
25 reinsurance agreements that have an inception,
26 anniversary, or renewal date not less than 6 months after

1 the effective date of this amendatory Act of the 97th
2 General Assembly.

3 (Source: P.A. 90-381, eff. 8-14-97.)