

1 **SENATE FLOOR VERSION**

2 February 18, 2016

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1488

6 By: Quinn of the Senate

7 and

8 Mulready of the House

9 An Act relating to credit for reinsurance; amending
10 36 O.S. 2011, Sections 5122 and 5123, which relate to
11 credit allowance and securities; modifying
12 requirements to be an accredited reinsurer;
13 clarifying person making certain accreditation;
14 requiring reinsurers to demonstrate financial
15 capacity; modifying terms of financial capacity;
16 updating statutory references; clarifying authority
17 to approve credit for reinsurance; modifying certain
18 deadline date; modifying terms of reporting;
19 decreasing required surplus for certain categories of
20 trusts under certain circumstances; modifying dates
21 and conforming language; specifying when certain
22 credit is allowed; providing insurer requirements for
23 certification; authorizing certain associations to be
24 certified reinsurers; providing requirements for
association certification; requiring Insurance
Commissioner to publish certain list; requiring
certain association to satisfy minimum capital and
surplus requirements by certain method; prohibiting
certain members of an association from certain
conduct; requiring association to provide certain
annual certification; requiring Insurance
Commissioner to publish list of qualified
jurisdictions for certain eligible insurers;
providing method for determination of qualified
jurisdictions; requiring publication of certain list
for consideration by the Insurance Commissioner;
specifying certain jurisdictions as qualified;
authorizing the Insurance Commissioner to suspend
reinsurer certification under certain circumstances;

1 requiring assignment of certain rating; providing
2 method for securing obligations of certified
3 reinsurers; providing method for domestic ceding
4 insurers to qualify for certain reinsurance;
5 providing method of securing obligations with certain
6 trust instrument; stating nonapplication of certain
7 surplus requirements; specifying method for reduction
8 of allowable credit when security is insufficient;
9 stating status for certain reinsurers that have
10 certification terminated; defining certain term;
11 providing for certain nonapplication for certain
12 ratings; authorizing certification when applicants
13 are certified under certain jurisdiction; allowing
14 for inactive status; providing requirements; adding
15 reference for credit requirements; deleting certain
16 defined terms; authorizing the Insurance Commissioner
17 to suspend or revoke accreditation and certification;
18 stating procedures; requiring ceding insurers to
19 manage certain reinsurance recoverables; providing
20 procedures; requiring ceding insurers to diversify
21 their reinsurance programs; providing procedures;
22 authorizing the Insurance Commissioner to adopt
23 certain regulations relating to assets, credits and
24 forms of security; clarifying meaning of securities;
25 defining terms; authorizing the Insurance
26 Commissioner to adopt certain rules; stating certain
27 application of rules under certain circumstances;
28 stating nonapplication of rules to certain insurers;
29 clarifying authority to adopt certain regulations;
30 modifying dates of application of certain act;
31 amending 36 O.S. 2011, Section 5124, which relates to
32 rules and regulations; authorizing the Insurance
33 Commissioner to adopt certain rules and regulations;
34 specifying types of regulations; specifying certain
35 dates of treaties; authorizing ceding insurers the
36 use of certain manual information under certain
37 conditions; prohibiting certain regulations; amending
38 36 O.S. 2011, Section 5125, which relates to
39 application of amendments to act; modifying dates of
40 application of amendments; providing for
41 codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. AMENDATORY 36 O.S. 2011, Section 5122, is
2 amended to read as follows:

3 Section 5122. A. Credit for reinsurance shall be allowed a
4 domestic ceding insurer as either an asset or a reduction from
5 liability on account of reinsurance ceded only when the reinsurer
6 meets the requirements of subsection B, C, D, E, ~~or F~~ or G of this
7 section; provided, further, that the Commissioner may adopt by
8 regulation pursuant to subsection B of Section 5124 of this title,
9 specific additional requirements relating to or setting forth the
10 valuation of assets or reserve credits, the amount and forms of
11 security supporting reinsurance arrangements described in subsection
12 B of Section 5124 of this title and/or the circumstances pursuant to
13 which credit will be reduced or eliminated. Credit shall be allowed
14 under subsection B, C or D of this section only as respects cessions
15 of those kinds or classes of business in which the assuming insurer
16 is licensed or otherwise permitted to write or assume in its state
17 of domicile or, in the case of a United States branch of an alien
18 assuming insurer, in the state through which it is entered and
19 licensed to transact insurance or reinsurance. Credit shall be
20 allowed under subsection D or E of this section only if the
21 applicable requirements of subsection ~~G~~ H have been satisfied.

22 B. Credit shall be allowed when the reinsurance is ceded to an
23 assuming insurer that is licensed to transact insurance or
24 reinsurance in this state.

1 C. Credit shall be allowed when the reinsurance is ceded to an
2 assuming insurer that is accredited by the Insurance Commissioner as
3 a reinsurer in this state. An accredited reinsurer is one that:

4 1. Files with the Insurance Commissioner evidence of its
5 submission to this state's jurisdiction;

6 2. Submits to this state's authority to examine its books and
7 records;

8 3. Is licensed to transact insurance or reinsurance in at least
9 one state, or in the case of a United States branch of an alien
10 assuming insurer is entered through and licensed to transact
11 insurance or reinsurance in at least one state; ~~and~~

12 4. Files annually with the Insurance Commissioner a copy of its
13 annual statement filed with the insurance department of its state of
14 domicile and a copy of its most recent audited financial statement,
15 ~~and either;~~ and

16 a.

17 5. Demonstrates to the satisfaction of the Insurance
18 Commissioner that it has adequate financial capacity to meet its
19 reinsurance obligations and is otherwise qualified to assume
20 reinsurance from domestic insurers. An assuming insurer is deemed
21 to meet this requirement as of the time of its application if it
22 maintains a surplus as regards policyholders in an amount ~~which is~~
23 not less than Twenty Million Dollars (\$20,000,000.00) and ~~whose~~ its
24 accreditation has not been denied by the Insurance Commissioner

1 within ninety (90) days ~~of its~~ after submission, ~~or of its~~
2 application.

3 ~~b. maintains a surplus as regards policyholders in an~~
4 ~~amount less than Twenty Million Dollars~~
5 ~~(\$20,000,000.00) and whose accreditation has been~~
6 ~~approved by the Insurance Commissioner.~~

7 ~~No credit shall be allowed a domestic ceding insurer, if the~~
8 ~~assuming insurers' accreditation has been revoked by the Insurance~~
9 ~~Commissioner after notice and opportunity for hearing.~~

10 D. Credit shall be allowed when the reinsurance is ceded to an
11 assuming insurer that is domiciled in, or in the case of a United
12 States branch of an alien assuming insurer is entered through, a
13 state that employs standards regarding credit for reinsurance
14 substantially similar to those applicable under this statute and the
15 assuming insurer or United States branch of an alien assuming
16 insurer:

17 1. Maintains a surplus as regards policyholders in an amount
18 not less than Twenty Million Dollars (\$20,000,000.00); and

19 2. Submits to the authority of this state to examine its books
20 and records.

21 The requirement of paragraph 1 of this subsection does not apply
22 to reinsurance ceded and assumed pursuant to pooling arrangements
23 among insurers in the same holding company system.

24

1 E. 1. Credit shall be allowed when the reinsurance is ceded to
2 an assuming insurer that maintains a trust fund in a qualified
3 United States financial institution, as defined in ~~subsection J of~~
4 ~~this section~~ Section 5123.1 of this title, for the payment of the
5 valid claims of its United States ceding insurers, their assigns and
6 successors in interest. To enable the Insurance Commissioner to
7 determine the sufficiency of the trust fund, the assuming insurer
8 shall report annually to the Insurance Commissioner information
9 substantially the same as that required to be reported on the
10 National Association of Insurance Commissioners ~~annual statement~~
11 Annual Statement form by licensed insurers. The assuming insurer
12 shall submit to examination of its books and records by the
13 Commissioner and bear the expense of examination.

14 2. Credit for reinsurance shall not be granted under this
15 subsection unless the form of the trust and any amendments to the
16 trust have been approved by ~~the Commissioner~~:

17 a. the Commissioner of the state where the trust is
18 domiciled, or

19 b. the Commissioner of another state who, pursuant to the
20 terms of the trust instrument, has accepted principal
21 regulatory oversight of the trust.

22 3. The form of the trust and any trust amendments also shall be
23 filed with the Insurance Commissioner of every state in which the
24 ceding insurer beneficiaries of the trust are domiciled. The trust

1 instrument shall provide that contested claims shall be valid and
2 enforceable upon the final order of any court of competent
3 jurisdiction in the United States. The trust shall vest legal title
4 to its assets in its trustees for the benefit of the assuming
5 insurer's United States ceding insurers, their assigns and
6 successors in interest. The trust and the assuming insurer shall be
7 subject to examination as determined by the Insurance Commissioner.

8 4. The trust shall remain in effect for as long as the assuming
9 insurer has outstanding obligations due under the reinsurance
10 agreements subject to the trust.

11 ~~3.~~ 5. No later than ~~March 1~~ February 28 of each year the
12 ~~trustees~~ trustee of the trust shall report to the Insurance
13 Commissioner in writing the balance of the trust and listing the
14 trust's investments at the preceding year end and shall certify the
15 date of termination of the trust, if so planned, or certify that the
16 trust shall not expire prior to the ~~next~~ following December 31.

17 ~~4.~~ 6. The following requirements apply to the following
18 categories of assuming insurer:

- 19 a. the trust fund for a single assuming insurer shall
20 consist of funds in trust in an amount not less than
21 the assuming insurer's liabilities attributable to
22 reinsurance ceded by United States ceding insurers,
23 and, in addition, the assuming insurer shall maintain
24 a trusteed surplus of not less than Twenty Million

1 Dollars (\$20,000,000.00), except as provided in
2 subparagraph b of this paragraph,

- 3 b. at any time after the assuming insurer has permanently
4 discontinued underwriting new business secured by the
5 trust for at least three (3) full years, the
6 Commissioner with principal regulatory oversight of
7 the trust may authorize a reduction in the required
8 trusteed surplus, but only after a finding, based on
9 an assessment of the risk, that the new required
10 surplus level is adequate for the protection of United
11 States ceding insurers, policyholders and claimants in
12 light of reasonably foreseeable adverse loss
13 development. The risk assessment may involve an
14 actuarial review, including an independent analysis of
15 reserves and cash flows, and shall consider all
16 material risk factors, including when applicable, the
17 lines of business involved, the stability of the
18 incurred loss estimates and the effect of the surplus
19 requirements on the assuming insurer's liquidity or
20 solvency. The minimum required trusteed surplus may
21 not be reduced to an amount less than thirty percent
22 (30%) of the assuming insurer's liabilities
23 attributable to reinsurance ceded by United States
24 ceding insurers covered by the trust,

1 (c) in addition to these trusts, the group shall
2 maintain in trust a trustee surplus of
3 which One Hundred Million Dollars
4 (\$100,000,000.00) shall be held jointly for
5 the benefit of the United States-domiciled
6 ceding insurers of any member of the group
7 for all years of account,

8 (2) the incorporated members of the group shall not
9 be engaged in any business other than
10 underwriting as a member of the group and shall
11 be subject to the same level of regulation and
12 solvency control by the group's domiciliary
13 regulator as are the unincorporated members, and

14 (3) within ninety (90) days after its financial
15 statements are due to be filed with the group's
16 domiciliary regulator, the group shall provide to
17 the Commissioner an annual certification by the
18 group's domiciliary regulator of the solvency of
19 each underwriter member; or if a certification is
20 unavailable, financial statements, prepared by
21 independent public accountants, of each
22 underwriter member of the group, and

23 e.

24

1 d. in the case of a group of incorporated underwriters
2 under common administration, the group shall:

3 (1) have continuously transacted an insurance
4 business outside the United States for at least
5 three (3) years immediately prior to making
6 application for accreditation,

7 (2) maintain aggregate policyholders' surplus of at
8 least Ten Billion Dollars (\$10,000,000,000.00),

9 (3) maintain a trust fund in an amount not less than
10 the group's several liabilities attributable to
11 business ceded by United States-domiciled ceding
12 insurers to any member of the group pursuant to
13 reinsurance contracts issued in the name of the
14 group,

15 (4) in addition, maintain a joint trustee surplus of
16 which One Hundred Million Dollars
17 (\$100,000,000.00) shall be held jointly for the
18 benefit of United States-domiciled ceding
19 insurers of any member of the group as additional
20 security for these liabilities, and

21 (5) within ninety (90) days after its financial
22 statements are due to be filed with the group's
23 domiciliary regulator, make available to the
24 Commissioner an annual certification of each

1 underwriter member's solvency by the member's
2 domiciliary regulator and financial statements of
3 each underwriter member of the group prepared by
4 its independent public accountant.

5 F. Credit shall be allowed when the reinsurance is ceded to an
6 assuming insurer that has been certified by the Commissioner as a
7 reinsurer in this state and secures its obligations in accordance
8 with the requirements of this subsection.

9 1. In order to be eligible for certification, the assuming
10 insurer shall meet the following requirements:

11 a. the assuming insurer must be domiciled and licensed to
12 transact insurance or reinsurance in a qualified
13 jurisdiction, as determined by the Commissioner
14 pursuant to paragraph 3 of this subsection,

15 b. the assuming insurer must maintain minimum capital
16 and surplus, or its equivalent, in an amount to be
17 determined by the Commissioner pursuant to regulation,

18 c. the assuming insurer must maintain financial strength
19 ratings from two or more rating agencies deemed
20 acceptable by the Commissioner pursuant to regulation,

21 d. the assuming insurer must agree to submit to the
22 jurisdiction of this state, appoint the Commissioner
23 as its agent for service of process in this state and
24 agree to provide security for one hundred percent

1 (100%) of the assuming insurer's liabilities
2 attributable to reinsurance ceded by United States
3 ceding insurers if it resists enforcement of a final
4 United States judgment,

5 e. the assuming insurer must agree to meet applicable
6 information filing requirements as determined by the
7 Commissioner, both with respect to an initial
8 application for certification and on an ongoing basis,
9 and

10 f. the assuming insurer must satisfy any other
11 requirements for certification deemed relevant by the
12 Commissioner;

13 2. An association, including incorporated and individual
14 unincorporated underwriters, may be a certified reinsurer. In order
15 to be eligible for certification, in addition to satisfying
16 requirements of paragraph 1 of this subsection:

17 a. the association shall satisfy its minimum capital and
18 surplus requirements through the capital and surplus
19 equivalents (net of liabilities) of the association
20 and its members, which shall include a joint central
21 fund that may be applied to any unsatisfied obligation
22 of the association or any of its members, in an amount
23 determined by the Commissioner to provide adequate
24 protection,

1 b. the incorporated members of the association shall not
2 be engaged in any business other than underwriting as
3 a member of the association and shall be subject to
4 the same level of regulation and solvency control by
5 the association's domiciliary regulator as are the
6 unincorporated members, and

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

16 3. The Commissioner shall create and publish a list of
17 qualified jurisdictions, under which an assuming insurer licensed
18 and domiciled in such jurisdiction is eligible to be considered for
19 certification by the Commissioner as a certified reinsurer.

20 a. in order to determine whether the domiciliary
21 jurisdiction of a non-United States assuming insurer
22 is eligible to be recognized as a qualified
23 jurisdiction, the Commissioner shall evaluate the
24 appropriateness and effectiveness of the reinsurance

1 supervisory system of the jurisdiction, both
2 initially and on an ongoing basis, and consider the
3 rights, benefits and the extent of reciprocal
4 recognition afforded by the non-United States
5 jurisdiction to reinsurers licensed and domiciled in
6 the United States. A qualified jurisdiction must
7 agree to share information and cooperate with the
8 Commissioner with respect to all certified reinsurers
9 domiciled within that jurisdiction. A jurisdiction
10 may not be recognized as a qualified jurisdiction if
11 the Commissioner has determined that the jurisdiction
12 does not adequately and promptly enforce final United
13 States judgments and arbitration awards. Additional
14 factors may be considered in the discretion of the
15 Commissioner,

16 b. a list of qualified jurisdictions shall be published
17 through the NAIC Committee Process. The Commissioner
18 shall consider this list in determining qualified
19 jurisdictions. If the Commissioner approves a
20 jurisdiction as qualified that does not appear on the
21 list of qualified jurisdictions, the Commissioner
22 shall provide thoroughly documented justification in
23 accordance with criteria to be developed under
24 regulations,

1 c. United States jurisdictions that meet the requirement
2 for accreditation under the NAIC financial standards
3 and accreditation program shall be recognized as
4 qualified jurisdictions,

5 d. if a certified reinsurer's domiciliary jurisdiction
6 ceases to be a qualified jurisdiction, the
7 Commissioner may at his or her discretion suspend the
8 reinsurer's certification indefinitely, in lieu of
9 revocation;

10 4. The Commissioner shall assign a rating to each certified
11 reinsurer, giving due consideration to the financial strength
12 ratings that have been assigned by rating agencies deemed acceptable
13 to the Commissioner pursuant to regulation. The Commissioner shall
14 publish a list of all certified reinsurers and their ratings.

15 5. A certified reinsurer shall secure obligations assumed from
16 United States ceding insurers under this subsection at a level
17 consistent with its rating, as specified in regulations promulgated
18 by the Commissioner.

19 a. in order for a domestic ceding insurer to qualify for
20 full financial statement credit for reinsurance ceded
21 to a certified reinsurer, the certified reinsurer
22 shall maintain security in a form acceptable to the
23 Commissioner and consistent with the provisions of
24 Section 5123 of this title, or in a multibeneficiary

1 trust in accordance with subsection E of this section,
2 except as otherwise provided in this subsection,

3 b. if a certified reinsurer maintains a trust to fully
4 secure its obligations subject to subsection E of this
5 section, and chooses to secure its obligations
6 incurred as a certified reinsurer in the form of a
7 multibeneficiary trust, the certified reinsurer shall
8 maintain separate trust accounts for its obligations
9 incurred under reinsurance agreements issued or
10 renewed as a certified reinsurer with reduced security
11 as permitted by this subsection or comparable laws of
12 other United States jurisdictions and for its
13 obligations subject to subsection E of this section.

14 It shall be a condition to the grant of certification
15 under this subsection that the certified reinsurer
16 shall have bound itself, by the language of the trust
17 and agreement with the Commissioner with principal
18 regulatory oversight of each such trust account, to
19 fund, upon termination of any such trust account, out
20 of the remaining surplus of such trust any deficiency
21 of any other such trust account,

22 c. the minimum trustee surplus requirements provided in
23 subsection E of this section are not applicable
24 with respect to a multibeneficiary trust maintained by

1 a certified reinsurer for the purpose of securing
2 obligations incurred under this subsection, except
3 that such trust shall maintain a minimum trustee
4 surplus of Ten Million Dollars (\$10,000,000.00),

5 d. with respect to obligations incurred by a certified
6 reinsurer under this subsection, if the security is
7 insufficient, the Commissioner shall reduce the
8 allowable credit by an amount proportionate to the
9 deficiency, and may at his or her discretion impose
10 further reductions in allowable credit upon finding
11 that there is a material risk that the certified
12 reinsurer's obligations will not be paid in full when
13 due,

14 e. for purposes of this subsection, a certified reinsurer
15 whose certification has been terminated for any reason
16 shall be treated as a certified reinsurer required to
17 secure one hundred percent (100%) of its obligations,
18 (1) as used in this subsection, the term "terminated"
19 refers to revocation, suspension, voluntary
20 surrender and inactive status, and
21 (2) if the Commissioner continues to assign a higher
22 rating as permitted by other provisions of this
23 section, this requirement does not apply to a
24

1 certified reinsurer in inactive status or to a
2 reinsurer whose certification has been suspended.

3 6. If an applicant for certification has been certified as a
4 reinsurer in an NAIC accredited jurisdiction, the Commissioner may
5 at his or her discretion defer to that jurisdiction's certification,
6 and may in his or her discretion defer to the rating assigned by
7 that jurisdiction, and such assuming insurer shall be considered to
8 be a certified reinsurer in this state.

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

17 G. Credit shall be allowed when the reinsurance is ceded to an
18 assuming insurer not meeting the requirements of subsection B, C, D,
19 E or ~~E~~ F of this section but only as the insurance of risks located
20 in jurisdictions where the reinsurance is required by applicable law
21 or regulation of that jurisdiction.

22 ~~G.~~ H. If the assuming insurer is not licensed, ~~or~~ or
23 certified to transact insurance or reinsurance in this state, the
24 credit permitted by subsections D and E of this section shall not be

1 allowed unless the assuming insurer agrees in the reinsurance
2 agreements:

3 1. That in the event of the failure of the assuming insurer to
4 perform its obligations under the terms of the reinsurance
5 agreement, the assuming insurer, at the request of the ceding
6 insurer, shall submit to the jurisdiction of any court of competent
7 jurisdiction in any state of the United States, will comply with all
8 requirements necessary to give the court jurisdiction, and will
9 abide by the final decision of the court or of any appellate court
10 in the event of an appeal; and

11 2. To designate the Insurance Commissioner or a designated
12 attorney as its true and lawful attorney upon whom may be served any
13 lawful process in any action, suit or proceeding instituted by or on
14 behalf of the ceding ~~company~~ insurer.

15 ~~H. The provisions of this section are~~ This subsection is not
16 intended to conflict with or override the obligation of the parties
17 to a reinsurance agreement to arbitrate their disputes, if this
18 obligation is created in the agreement.

19 I. If the assuming insurer does not meet the requirements of
20 subsection B, C or D of this section, the credit permitted by
21 subsection E or F of this section shall not be allowed unless the
22 assuming insurer agrees in the trust agreements to the following
23 conditions:

24

1 1. Notwithstanding any other provisions in the trust
2 instrument, if the trust fund is inadequate because it contains an
3 amount less than the amount required by paragraph 4 6 of subsection
4 E of this section, or if the grantor of the trust has been declared
5 insolvent or placed into receivership, rehabilitation, liquidation
6 or similar proceedings under the laws of its state or country of
7 domicile, the trustee shall comply with an order of the Commissioner
8 with regulatory oversight over the trust or with an order of a court
9 of competent jurisdiction directing the trustee to transfer to the
10 Commissioner with regulatory oversight all of the assets of the
11 trust fund;

12 2. The assets shall be distributed by and claims shall be filed
13 with and valued by the Commissioner with regulatory oversight in
14 accordance with the laws of the state in which the trust is
15 domiciled that are applicable to the liquidation of domestic
16 insurance companies;

17 3. If the Commissioner with regulatory oversight determines
18 that the assets of the trust fund or any part thereof are not
19 necessary to satisfy the claims of the United States ceding insurers
20 of the grantor of the trust, the assets or part thereof shall be
21 returned by the Commissioner with regulatory oversight to the
22 trustee for distribution in accordance with the trust agreement; and

23 4. The grantor shall waive any right otherwise available to it
24 under United States law that is inconsistent with this provision.

1 J. ~~1. For purposes of subsection E of this section, "qualified~~
2 ~~United States financial institution" means an institution that:~~

3 ~~a. is organized or, in the case of a United States office~~
4 ~~of a foreign banking organization, is licensed under~~
5 ~~the laws of the United States or any state thereof,~~

6 ~~b. is regulated, supervised and examined by federal or~~
7 ~~state authorities having regulatory authority over~~
8 ~~banks and trust companies, and~~

9 ~~c. has been determined by either the Insurance~~
10 ~~Commissioner, or the Securities Valuation Office of~~
11 ~~the National Association of Insurance Commissioners,~~
12 ~~to meet such standards of financial condition and~~
13 ~~standing as are considered necessary and appropriate~~
14 ~~to regulate the quality of financial institutions~~
15 ~~whose letters of credit will be acceptable to the~~
16 ~~Commissioner.~~

17 ~~2. A "qualified United States financial institution" means, for~~
18 ~~purposes of those provisions of this law specifying those~~
19 ~~institutions that are eligible to act as a fiduciary of a trust, an~~
20 ~~institution that:~~

21 ~~a. is organized or (in the case of a United States branch~~
22 ~~or agency office of a foreign banking organization)~~
23 ~~licensed under the laws of the United States or any~~
24

1 ~~state thereof and has been granted authority to~~
2 ~~operate with fiduciary powers, and~~

3 ~~b. is regulated, supervised and examined by federal or~~
4 ~~state authorities having regulatory authority over~~
5 ~~banks and trust companies.~~

6 If an accredited or certified reinsurer ceases to meet the
7 requirements for accreditation or certification, the Commissioner
8 may suspend or revoke the reinsurer's accreditation or
9 certification.

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

- 13 a. the reinsurer waives its right to hearing,
14 b. the Commissioner's order is based on regulatory action
15 by the reinsurer's domiciliary jurisdiction or the
16 voluntary surrender or termination of the reinsurer's
17 eligibility to transact insurance or reinsurance
18 business in its domiciliary jurisdiction or in the
19 primary certifying state of the reinsurer under
20 paragraph 6 of subsection F of this section, or
21 c. the Commissioner finds that an emergency requires
22 immediate action and a court of competent jurisdiction
23 has not stayed the Commissioner's action;

1 2. While a reinsurer's accreditation or certification is
2 suspended, no reinsurance contract issued or renewed after the
3 effective date of the suspension qualifies for credit except to the
4 extent that the reinsurer's obligations under the contract are
5 secured in accordance with Section 5123 of this title. If a
6 reinsurer's accreditation or certification is revoked, no credit for
7 reinsurance may be granted after the effective date of the
8 revocation except to the extent that the reinsurer's obligations
9 under the contract are secured in accordance with paragraph 5 of
10 subsection F of this section or Section 5123 of this title.

11 K. Concentration Risk.

12 1. A ceding insurer shall take steps to manage its reinsurance
13 recoverables proportionate to its own book of business. A domestic
14 ceding insurer shall notify the Commissioner within thirty (30) days
15 after reinsurance recoverables from any single assuming insurer, or
16 group of affiliated assuming insurers, exceeds fifty percent (50%)
17 of the domestic ceding insurer's last reported surplus to
18 policyholders, or after it is determined that reinsurance
19 recoverables from any single assuming insurer, or group of
20 affiliated assuming insurers, is likely to exceed this limit. The
21 notification shall demonstrate that the exposure is safely managed
22 by the domestic ceding insurer.

23 2. A ceding insurer shall take steps to diversify its
24 reinsurance program. A domestic ceding insurer shall notify the

1 Commissioner within thirty (30) days after ceding to any single
2 assuming insurer, or group of affiliated assuming insurers, more
3 than twenty percent (20%) of the ceding insurer's gross written
4 premium in the prior calendar year, or after it has determined that
5 the reinsurance ceded to any single assuming insurer, or group of
6 affiliated assuming insurers, is likely to exceed this limit. The
7 notification shall demonstrate that the exposure is safely managed
8 by the domestic ceding insurer.

9 SECTION 2. AMENDATORY 36 O.S. 2011, Section 5123, is
10 amended to read as follows:

11 Section 5123. An asset or a reduction from liability for the
12 reinsurance ceded by a domestic insurer to an assuming insurer not
13 meeting the requirements of Section 5122 of this title shall be
14 allowed in an amount not exceeding the liabilities carried by the
15 ceding insurer; provided, further, that the Commissioner may adopt
16 by regulation pursuant to subsection B of Section 5124 of this
17 title, specific additional requirements relating to or setting
18 forth: the valuation of assets or reserve credits, the amount and
19 forms of security supporting reinsurance arrangements described in
20 subsection B of Section 5124 of this title and/or the circumstances
21 pursuant to which credit will be reduced or eliminated. The
22 reduction shall be in the amount of funds held by or on behalf of
23 the ceding insurer, including funds held in trust for the ceding
24 insurer, under a reinsurance contract with ~~such~~ the assuming insurer

1 as security for the payment of obligations thereunder, if ~~such~~ the
2 security is held in the United States subject to withdrawal solely
3 by, and under the exclusive control of, the ceding insurer; or, in
4 the case of a trust, held in a qualified United States financial
5 institution, as defined in Section ~~5122~~ 5123.1 of this title. This
6 security may be in ~~one or more of the following forms~~ form of:

7 1. Cash;

8 2. Securities listed by the Securities Valuation Office of the
9 National Association of Insurance Commissioners, including those
10 deemed exempt from filing as defined by the Purposes and Procedures
11 Manual of the Securities Valuation Office and qualifying as admitted
12 assets;

13 3. ~~Any other form of security acceptable to the Insurance~~
14 ~~Commissioner; and~~

15 ~~4.~~ a. ~~Clean~~ clean, irrevocable, unconditional letters of
16 credit, issued or confirmed by a qualified United
17 States financial institution, as defined in ~~paragraph~~
18 ~~1 of subsection J of~~ Section ~~5122~~ 5123.1 of this
19 title, effective no later than December 31 of the year
20 for which the filing is being made, and in the
21 possession of, or in trust for, the ceding ~~company~~
22 insurer on or before the filing date of its annual
23 statement-,

24

1 b. ~~Letters~~ letters of credit meeting applicable standards
2 of issuer acceptability as of the dates of their
3 issuance or confirmation shall, notwithstanding the
4 issuing or confirming institution's subsequent failure
5 to meet applicable standards of issuer acceptability,
6 continue to be acceptable as security until their
7 expiration, extension, renewal, modification or
8 amendment, whichever first occurs; or

9 4. Any other form of security acceptable to the Insurance

10 Commissioner.

11 SECTION 3. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 5123.1 of Title 36, unless there
13 is created a duplication in numbering, reads as follows:

14 A. For purposes of paragraph 3 of Section 5123 of Title 36 of
15 the Oklahoma Statutes, a "qualified United States financial
16 institution" means an institution that:

17 1. Is organized or (in case of a United States office of a
18 foreign banking organization) licensed, under the laws of the United
19 States or any state thereof;

20 2. Is regulated, supervised and examined by United States
21 federal or state authorities having regulatory authority over banks
22 and trust companies; and

23 3. Has been determined by either the Insurance Commissioner or
24 the Securities Valuation Office of the National Association of

1 Insurance Commissioners to meet such standards of financial
2 condition and standing as are considered necessary and appropriate
3 to regulate the quality of financial institutions whose letters of
4 credit will be acceptable to the Commissioner.

5 B. For purposes of the provisions of the Credit for Reinsurance
6 Act specifying those institutions that are eligible to act as a
7 fiduciary of a trust, a "qualified United States financial
8 institution" means an institution that:

9 1. Is organized, or, in the case of a United States branch or
10 agency office of a foreign banking organization, licensed under the
11 laws of the United States or any state thereof and has been granted
12 authority to operate with fiduciary powers; and

13 2. Is regulated, supervised and examined by federal or state
14 authorities having regulatory authority over banks and trust
15 companies.

16 SECTION 4. AMENDATORY 36 O.S. 2011, Section 5124, is
17 amended to read as follows:

18 Section 5124. A. The Insurance Commissioner may promulgate and
19 adopt rules and regulations implementing the provisions of the
20 Credit for Reinsurance Act.

21 B. The Insurance Commissioner is further authorized to adopt
22 rules and regulations applicable to reinsurance arrangements
23 described in paragraph 1 of this subsection.

24

1 1. A regulation adopted pursuant to this section may apply only
2 to reinsurance relating to:

- 3 a. life insurance policies with guaranteed nonlevel gross
4 premiums or guaranteed nonlevel benefits,
- 5 b. universal life insurance policies with provisions
6 resulting in the ability of a policyholder to keep a
7 policy in force over a secondary guarantee period,
- 8 c. variable annuities with guaranteed death or living
9 benefits,
- 10 d. long-term care insurance policies, or
- 11 e. such other life and health insurance and annuity
12 products as to which the NAIC adopts model regulatory
13 requirements with respect to credit for reinsurance;

14 2. A regulation adopted pursuant to subparagraph a of paragraph
15 1 or subparagraph b of this paragraph may apply to any treaty
16 containing:

- 17 a. policies issued on or after January 1, 2017, and/or
- 18 b. policies issued prior to January 1, 2015, if risk
19 pertaining to such pre-2015 policies is ceded in
20 connection with the treaty, in whole or in part, on or
21 after January 1, 2015;

22 3. A regulation adopted pursuant to subsection B of this
23 section may require the ceding insurer, in calculating the amounts
24 or forms of security required to be held under regulations

1 promulgated under this authority, to use the Valuation Manual
2 adopted by the NAIC under Section 11B (1) of the NAIC Standard
3 Valuation Law, including all amendments adopted by the NAIC and in
4 effect on the date as of which the calculation is made, to the
5 extent applicable;

6 4. A regulation adopted pursuant to subsection B of this
7 section shall not apply to cessions to an assuming insurer that:

8 a. is certified in this state, or

9 b. maintains at least Two Hundred Fifty Million Dollars
10 (\$250,000,000.00) in capital and surplus when

11 determined in accordance with the NAIC Accounting

12 Practices and Procedures Manual, including all

13 amendments thereto adopted by the NAIC, excluding the

14 impact of any permitted or prescribed practices; and

15 is:

16 (1) licensed in at least twenty-six states, or

17 (2) licensed in at least ten states, and licensed or

18 accredited in a total of at least thirty-five

19 states,

20 5. The authority to adopt regulations pursuant to subsection B

21 of this section does not limit the Commissioner's general authority

22 to adopt regulations pursuant to subsection A of this section.

23 SECTION 5. AMENDATORY 36 O.S. 2011, Section 5125, is

24 amended to read as follows:

1 Section 5125. The amendments to the Credit for Reinsurance Act
2 provided for in ~~this act~~ Sections 5121 through 5125 of this title,
3 shall apply to all cessions on and after ~~November 1, 2000~~ November
4 1, 2016, under reinsurance agreements ~~which~~ that have had an
5 inception, anniversary, or renewal date not less than six (6) months
6 after ~~November 1, 2000~~ November 1, 2016.

7 SECTION 6. This act shall become effective November 1, 2016.

8 COMMITTEE REPORT BY: COMMITTEE ON INSURANCE
9 February 18, 2016 - DO PASS AS AMENDED

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