

Senate Bill 385

By: Senators Shafer of the 48th, Goggans of the 7th, Bethel of the 54th and McKoon of the 29th

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to provide for the confidentiality of certain records of the Commissioner of Insurance to extend to state, federal, or international regulatory law enforcement; to provide for exceptions; to provide for certain premium taxes and the rate and manner of collection to include state participation in certain agreements with other states; to revise certain provisions regarding reinsurance; to revise certain provisions regarding reinsurance credits applicable to an assuming insurer licensed in its state of domicile or of certain alien assuming insurers; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by revising subsections (g) and (i) of Code Section 33-2-14, relating to preparation of written reports of examinations generally, certification of reports, admissibility in evidence, notice and hearing on reports, and use of examination documents, as follows:

“(g) Notwithstanding the provisions of Article 4 of Chapter 18 of Title 50, relating to the inspection of public records, all work papers, analysis, ~~recorded~~ information, documents, ~~copies~~ information received from another state, and any other materials created, produced, or obtained by or disclosed to the Commissioner or any other person in the course of an examination made under this chapter or in the course of analysis by the Commissioner of the financial condition or market conduct of a company must be given confidential treatment and are not subject to subpoena and may not be made public by the Commissioner or any other person. Access may be granted to authorized representatives of the National Association of Insurance Commissioners. Such representatives must agree in writing prior to receiving the information to treat such information confidentially as required by this Code section, unless the prior written consent of the company to which it pertains has been obtained.”

"(i) Nothing contained in this Code section shall prevent or be construed as prohibiting the Commissioner from disclosing the ~~contents of an examination report, preliminary examination report, or results or any matter relating thereto to the insurance department of this or any other state or country or to~~ work papers, analysis, information, or a document described in subsection (g) of this Code section to state, federal, or international regulatory agencies or state, federal, or international law enforcement officials of this or any other state or agency of the federal government at any time authorities so long as such agency or office receiving the report or matter relating thereto recipient agrees in writing to treat such report confidentially and in a manner consistent with this title."

SECTION 2.

Said title is further amended by revising subsection (b) of Code Section 33-5-31, relating to payment by broker of tax for privilege of doing business and computation and allocation of tax, as follows:

"(b) If this state participates in a cooperative agreement, compact, or reciprocal agreement with other states pursuant to Code Sections 33-5-40 through 33-5-44 and a surplus line policy covers risks or exposures located or to be performed both in and out of this state, the sum payable shall be computed based on an amount equal to 4 percent of that portion of the gross premiums allocated to this state plus an amount equal to the portion of premiums allocated to other states or territories on the basis of the tax rates and fees applicable to properties, risks, or exposures located or to be performed outside this state."

SECTION 3.

Said title is further amended by revising subsection (b) of Code Section 33-5-33, relating to filing of report by persons procuring insurance with unauthorized insurers and levy, collection, and disposition of tax by persons procuring such insurance, and adding a new subsection to read as follows:

"(b) ~~For~~ If this state participates in a cooperative agreement, compact, or reciprocal agreement with other states pursuant to Code Sections 33-5-40 through 33-5-44, then for the general support of the government of this state, there is levied and there shall be collected from every such insured in this state for the privilege of so insuring his property or interests, a tax ~~at the rate of 4 percent of the gross premium paid for any such insurance covering risks or exposures located or to be performed both in and out of this state, after deduction of return premiums, if any.~~ The sum payable shall be computed based upon an amount equal to 4 percent of that portion of the gross premiums allocated to this state plus an amount equal to the portion of premiums allocated to other states or territories on the basis of the tax rates and fees applicable to properties, risks, or exposures located or to be

performed outside this state. Such tax shall be paid to the Commissioner coincidentally with the filing of the report provided for in subsection (a) of this Code section.

(b.1) If this state does not participate in a cooperative agreement, compact, or reciprocal agreement with other states pursuant to Code Sections 33-5-40 through 33-5-44, then for the general support of the government of this state, there is levied and there shall be collected from every such insured in this state for the privilege of so insuring his or her property or interests both in and out of this state, a tax at the rate of 4 percent of the gross premium paid for any such insurance, after deduction of return premiums, if any. Such tax shall be paid to the Commissioner coincidentally with the filing of the report provided for in subsection (a) of this Code section."

SECTION 4.

Said title is further amended by revising Code Section 33-5-41, relating to Governor authorized to enter into cooperative agreement, compact, or reciprocal agreement for collection of insurance premium taxes, as follows:

"33-5-41.

The Governor, on behalf of the state, advised by and in consultation with the Commissioner of Insurance, is authorized to enter into a cooperative agreement, compact, or reciprocal agreement with another state or states for the purpose of the collection of insurance premium taxes imposed by Code ~~Section~~ Sections 33-5-31 and 33-5-33."

SECTION 5.

Said title is further amended by revising Code Section 33-7-14, relating to reinsurance of risks, as follows:

"33-7-14.

(a) Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of paragraph (1), (2), (3), (4), ~~or (5), or (6)~~ of this subsection. Credit shall be allowed under paragraph (1), (2), or (3) of this subsection only with respect to cessions of those kinds of classes of business for which the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile, or in the case of a United States branch of an alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance. If meeting the requirements of paragraph (3) or (4) of this subsection, the requirements of paragraph ~~(6)~~ (7) of this subsection ~~must~~ shall also be met:

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

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

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

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

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

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

~~(i) Maintains a surplus with regard to policyholders in an amount which is not less than \$20 million and whose accreditation has not been denied by the Commissioner within 90 days of its submission; or~~

~~(ii) Maintains a surplus with regard to policyholders in an amount less than \$20 million and whose accreditation has been approved by the Commissioner.~~

~~No credit shall be allowed a domestic ceding insurer if the assuming insurer's accreditation has been revoked by the Commissioner after notice and hearing;~~

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

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

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

(B) Submits to the authority of this state to examine its books and records. Subparagraph (A) of this paragraph shall not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system;

(4)(A) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which maintains a trust fund in a qualified United States financial institution, as defined

in ~~paragraph (2)~~ of subsection (c) of this Code section, for the payment of the valid claims of its United States policyholders and ceding insurers, their assigns, and successors in interest. The assuming insurer shall report annually to the Commissioner information substantially the same as that required to be reported on the National Association of Insurance Commissioners Annual Statement form by licensed insurers to enable the Commissioner to determine the sufficiency of the trust fund. In the case of a single assuming insurer, the trust shall consist of a trustee account representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, the assuming insurer shall maintain a trustee surplus of not less than \$20 million; provided, however, that, at any time after the assuming insurer has permanently discontinued underwriting new business secured by trust for at least three full years, the commissioner with principal regulatory oversight of the trust may authorize a reduction of the required trustee surplus, but only after a finding, based upon an assessment of the risk, that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including, when applicable, the lines of business involved, the stability of the incurred loss estimates and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trustee surplus may not be reduced to an amount less than 30 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust. In the case of a group including incorporated and individual unincorporated underwriters, the trust shall consist of a trustee account ~~representing the group's~~ in an amount not less than the respective underwriters' liabilities attributable to business written in the United States and, in addition, the group shall maintain a trustee surplus of which \$100 million shall be held jointly for the benefit of United States ceding insurers of any member of the group for all years of account; the incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members; and, within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall make available provide to the Commissioner an annual certification of the solvency of each underwriter by the group's domiciliary regulator or, if a certification is unavailable, financial statements prepared by and its independent public accountants of each member of the group.

(B) In the case of a group of incorporated insurers under common administration which complies with the filing requirements contained in subparagraph (A) of this paragraph and which has continuously transacted an insurance business outside the United States for at least three years immediately prior to making application for accreditation, and submits to this state's authority to examine its books and records and bears the expense of the examination, and which has aggregate policyholders' surplus of \$10 billion; the trust shall be in an amount equal to the group's several liabilities attributable to business ceded by the United States ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of such group; plus the group shall maintain a joint trustee surplus of which \$100 million shall be held jointly for the benefit of United States ceding insurers of any member of the group as additional security for any such liabilities, and within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, each member of the group shall make available to the Commissioner an annual certification of the member's solvency by the member's domiciliary regulator and financial statements prepared by its independent public accountant.

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

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

(5) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of paragraph (1), (2), (3), or (4) of this subsection ~~but only with respect to the insurance of risks located in jurisdictions where such reinsurance is required by applicable law or regulation of that jurisdiction; and if such assuming insurer has been certified by the Commissioner as a reinsurer in this state and secures its obligations in accordance with the requirements of this subsection.~~

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

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

(ii) The assuming insurer shall maintain minimum capital and surplus, or its equivalent, in an amount to be determined by the Commissioner pursuant to regulation;

(iii) The assuming insurer shall maintain financial strength ratings from two or more rating agencies deemed acceptable by the Commissioner pursuant to regulation;

(iv) The assuming insurer shall agree to submit to the jurisdiction of this state, appoint the Commissioner as its agent for service of process in this state, and agree to provide security for 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if it resists enforcement of a final United States judgment;

(v) The assuming insurer shall agree to meet applicable information filing requirements as determined by the Commissioner, both with respect to an initial application for certification and on an ongoing basis; and

(vi) The assuming insurer shall satisfy any other requirements for certification deemed relevant by the Commissioner.

(B) An association including incorporated and individual unincorporated underwriters may be a certified reinsurer. In order to be eligible for certification, in addition to satisfying requirements of subparagraph (A) of this paragraph:

(i) The association shall satisfy its minimum capital and surplus requirements through the capital and surplus equivalents, net of liabilities, of the association and its members, which shall include a joint central fund that may be applied to any unsatisfied obligation of the association of any of its members, in an amount determined by the Commissioner to provide adequate protection;

(ii) The incorporated members of the association shall not be engaged in any business other than underwriting as a member of the association and shall be subject to the

241 same level of regulation and solvency control by the association's domiciliary
242 regulator as are the unincorporated members; and

243 (iii) Within 90 days after its financial statements are due to be filed with the
244 association's domiciliary regulator, the association shall provide to the Commissioner
245 an annual certification by the association's domiciliary regulator of the solvency of
246 each underwriter member; or if a certification is unavailable, financial statements,
247 prepared by independent public accountants, of each underwriter member of the
248 association.

249 (C) The Commissioner shall create and publish a list of qualified jurisdictions under
250 which an assuming insurer licensed and domiciled in such jurisdiction is eligible to be
251 considered for certification by the Commissioner as a certified reinsurer.

252 (i) In order to determine whether the domiciliary jurisdiction of a non-United States
253 assuming insurer is eligible to be recognized as a qualified jurisdiction, the
254 Commissioner shall evaluate the appropriateness and effectiveness of the reinsurance
255 supervisory system of the jurisdiction, both initially and on an ongoing basis, and
256 consider the rights, benefits, and the extent of reciprocal recognition afforded by the
257 non-United States jurisdiction to reinsurers licensed and domiciled in the United
258 States. A qualified jurisdiction shall agree to share information and cooperate with
259 the Commissioner with respect to all certified reinsurers domiciled within that
260 jurisdiction. A jurisdiction may not be recognized as a qualified jurisdiction if the
261 Commissioner has determined that the jurisdiction does not adequately and promptly
262 enforce final United States judgments and arbitration awards. Additional factors may
263 be considered in the discretion of the Commissioner.

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

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

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

276 (D) The Commissioner shall assign a rating to each certified reinsurer, giving due
277 consideration to the financial strength ratings that have been assigned by rating

agencies deemed acceptable to the Commissioner pursuant to regulation. The Commissioner shall publish a list of all certified reinsurers and their ratings.

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

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

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

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

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

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

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

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

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

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

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

~~(6)~~(7) If the assuming insurer is not licensed, or accredited, or certified to transact insurance or reinsurance in this state, the credit permitted by paragraphs (3) and (4) of this subsection shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

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

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

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

(8) If the assuming insurer does not meet the requirements of paragraph (1), (2), or (3) of this subsection, the credit permitted by paragraph (4) or (6) of this subsection shall not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

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

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

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

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

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

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

(i) The reinsurer waives its right to hearing;

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

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

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

(10) Concentration Risk:

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

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

(b) ~~A~~ An asset or a reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of subsection (a) of this Code section shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer and such reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations thereunder, if such security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified United States financial institution, as defined in paragraph (2) of subsection (c) of this Code section. This security may be in the form of:

(1) Cash;

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

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

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

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

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

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

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

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

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

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

SECTION 4.

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