

1 AN ACT concerning regulation.

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

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

7 (215 ILCS 5/35B-25)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (1) the resulting company as a debtor;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the procedures adopted by the NAIC.

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

5 (d) (Blank).

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

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

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

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

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

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

1 company.

2 (f) (Blank).

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

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

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

16 (i) (Blank).

17 (j) (Blank).

18 (k) (Blank).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (215 ILCS 5/131.14b)

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

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

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

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

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

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

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

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

14 (4) an insurance holding company system:

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

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

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

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

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

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

1 the National Association of Insurance Commissioners:

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

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

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

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

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

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

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

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

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

2 Sec. 131.22. Confidential treatment.

3 (a) Documents, materials, or other information in the
4 possession or control of the Department that are obtained by
5 or disclosed to the Director or any other person in the course
6 of an examination or investigation made pursuant to this
7 Article and all information reported or provided to the
8 Department pursuant to paragraphs (12) and (13) of Section
9 131.5 and Sections 131.13 through 131.21 are recognized by
10 this State as being proprietary and to contain trade secrets,
11 and ~~this Article~~ shall be confidential by law and privileged,
12 shall not be subject to the Illinois Freedom of Information
13 Act, shall not be subject to subpoena, and shall not be subject
14 to discovery or admissible in evidence in any private civil
15 action. However, the Director is authorized to use the
16 documents, materials, or other information in the furtherance
17 of any regulatory or legal action brought as a part of the
18 Director's official duties. The Director shall not otherwise
19 make the documents, materials, or other information public
20 without the prior written consent of the company to which it
21 pertains unless the Director, after giving the company and its
22 affiliates who would be affected thereby prior written notice
23 and an opportunity to be heard, determines that the interest
24 of policyholders, shareholders, or the public shall be served
25 by the publication thereof, in which event the Director may

1 publish all or any part in such manner as may be deemed
2 appropriate.

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

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

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

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

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

23 (3) (blank).

24 (c-5) Written ~~shall enter into written~~ agreements with the
25 NAIC governing sharing and use of information provided
26 pursuant to this Article consistent with ~~this~~ subsection (c)

1 ~~that~~ shall:

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

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

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

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

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

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

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

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

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

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

1 (215 ILCS 5/131.22a new)

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

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

16 (215 ILCS 5/173.1) (from Ch. 73, par. 785.1)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (C) (1) Credit shall be allowed when the reinsurance
25 is ceded to an assuming insurer that maintains a trust
26 fund in a qualified United States financial institution,

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

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

25 (i) the regulatory official of the state where the
26 trust is domiciled; or

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

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

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

25 No later than February 28 of each year, the assuming
26 insurer's chief executive officer or chief financial

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

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

25 (i) a copy of the form of the trust agreement and
26 any trust amendments to the trust agreement pertaining

1 to the trust fund;

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

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

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

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

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

25 (3) The following requirements apply to the following
26 categories of assuming insurer:

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

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

1 liabilities attributable to reinsurance ceded by U.S.
2 ceding insurers covered by the trust.

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

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

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

23 (III) in addition to these trusts, the group
24 shall maintain in trust a trustee surplus of
25 which not less than \$100,000,000 shall be held
26 jointly for the benefit of the U.S. domiciled

1 ceding insurers of any member of the group for all
2 years of account.

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

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

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

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

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

26 (iii) maintain a trust in an amount not less

1 than the group's several liabilities attributable
2 to business ceded by United States domiciled
3 ceding insurers to any member of the group
4 pursuant to reinsurance contracts issued in the
5 name of the group;

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

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

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

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

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

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

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

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

10 (i) Standard & Poor's;

11 (ii) Moody's Investors Service;

12 (iii) Fitch Ratings;

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

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

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

23 (e) the assuming insurer must agree to meet
24 applicable information filing requirements as
25 determined by the Director, both with respect to
26 an initial application for certification and on an

1 ongoing basis.

2 (2) An association, including incorporated and
3 individual unincorporated underwriters, may be a
4 certified reinsurer. In order to be eligible for
5 certification, in addition to satisfying the
6 requirements of subparagraph (1) of this paragraph
7 (C-5):

8 (a) the association shall satisfy its minimum
9 capital and surplus requirements through the
10 capital and surplus equivalents (net of
11 liabilities) of the association and its members,
12 which shall include a joint central fund that may
13 be applied to any unsatisfied obligation of the
14 association or any of its members, in the amounts
15 specified in item (b) of subparagraph (1) of this
16 paragraph (C-5);

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

24 (c) within 90 days after its financial
25 statements are due to be filed with the
26 association's domiciliary regulator, the

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

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

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

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

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

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

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

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

24 (iv) the form and substance of financial
25 reports required to be filed or made publicly
26 available by reinsurers in the domiciliary

1 jurisdiction and the accounting principles
2 used;

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

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

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

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

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

1 jurisdictions that are no longer qualified.

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

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

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

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

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

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

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

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

1 certification in Illinois.

2 (5) The Director shall assign a rating to each
3 certified reinsurer pursuant to rules adopted by the
4 Department. Factors that shall be considered as part
5 of the evaluation process include the following:

6 (a) The certified reinsurer's financial
7 strength rating from an acceptable rating agency.
8 Financial strength ratings shall be classified
9 according to the following ratings categories:

10 (i) Ratings Category "Secure - 1"
11 corresponds to the highest level of rating
12 given by a rating agency, including, but not
13 limited to, A.M. Best Company rating A++;
14 Standard & Poor's rating AAA; Moody's
15 Investors Service rating Aaa; and Fitch
16 Ratings rating AAA.

17 (ii) Ratings Category "Secure - 2"
18 corresponds to the second-highest level of
19 rating or group of ratings given by a rating
20 agency, including, but not limited to, A.M.
21 Best Company rating A+; Standard & Poor's
22 rating AA+, AA, or AA-; Moody's Investors
23 Service ratings Aa1, Aa2, or Aa3; and Fitch
24 Ratings ratings AA+, AA, or AA-.

25 (iii) Ratings Category "Secure - 3"
26 corresponds to the third-highest level of

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

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

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

22 (vi) Ratings Category "Vulnerable - 6"
23 corresponds to a level of rating given by a
24 rating agency, other than those described in
25 subitems (i) through (v) of this item (a),
26 including, but not limited to, A.M. Best

1 Company rating B, B-, C++, C+, C, C-, D, E, or
2 F; Standard & Poor's ratings BB+, BB, BB-, B+,
3 B, B-, CCC, CC, C, D, or R; Moody's Investors
4 Service ratings Ba1, Ba2, Ba3, B1, B2, B3,
5 Caa, Ca, or C; and Fitch Ratings ratings BB+,
6 BB, BB-, B+, B, B-, CCC+, CCC, CCC-, or D.

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

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

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

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

24 (e) The reputation of the certified reinsurer
25 for prompt payment of claims under reinsurance
26 agreements, based on an analysis of ceding

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

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

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

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

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

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

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

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

24 (6) Based on the analysis conducted under item (e)
25 of subparagraph (5) of this paragraph (C-5) of a
26 certified reinsurer's reputation for prompt payment of

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

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

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

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

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

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

7 Secure - 1: 0%.

8 Secure - 2: 10%.

9 Secure - 3: 20%.

10 Secure - 4: 50%.

11 Secure - 5: 75%.

12 Vulnerable - 6: 100%.

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

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

1 (1), except as otherwise provided in this
2 subparagraph (8).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (11) Credit for reinsurance under this paragraph
26 (C-5) shall apply only to reinsurance contracts

1 entered into or renewed on or after the effective date
2 of the certification of the assuming insurer.

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

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

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

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

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

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

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

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

1 domiciliary jurisdiction and a central fund containing
2 a balance in amounts to be set forth by rule.

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

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

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

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

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

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

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

25 (v) the assuming insurer must confirm that it
26 is not presently participating in any solvent

1 scheme of arrangement which involves this State's
2 ceding insurers and agree to notify the ceding
3 insurer and the Director and to provide security
4 in an amount equal to 100% of the assuming
5 insurer's liabilities to the ceding insurer if the
6 assuming insurer enters into such a solvent scheme
7 of arrangement; the security shall be in a form
8 consistent with the provisions of paragraph (C-5)
9 of subsection (1) and subsection (2) and as
10 specified by the Department by rule.

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

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

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

26 (h) Nothing in this subparagraph precludes an

1 assuming insurer from providing the Director with
2 information on a voluntary basis.

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

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

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

1 be allowed upon removal of a reciprocal jurisdiction
2 from this list.

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

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

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

1 secured in accordance with subsection (2).

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

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

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

25 (7) Credit may be taken under this paragraph only for
26 reinsurance agreements entered into, amended, or renewed

1 on or after the effective date of this amendatory Act of
2 the 102nd General Assembly and only with respect to losses
3 incurred and reserves reported on or after the later of:

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

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

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

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

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

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

1 jurisdiction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (1) A ceding insurer shall take steps to manage
22 its reinsurance recoverable proportionate to its own
23 book of business. A domestic ceding insurer shall
24 notify the Director within 30 days after reinsurance
25 recoverables from any single assuming insurer, or
26 group of affiliated assuming insurers, exceeds 50% of

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

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

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

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

7 (A) Cash.

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

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

1 subsequent failure to meet applicable standards of issuer
2 acceptability, continue to be acceptable as security until
3 their expiration, extension, renewal, modification, or
4 amendment, whichever first occurs.

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

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

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

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

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

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

24 (B) A "qualified United States financial institution"
25 means, for purposes of those provisions of this law specifying
26 those institutions that are eligible to act as a fiduciary of a

1 trust, an institution that:

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

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

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

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

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

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

26 Section 99. Effective date. This Act takes effect December

1 31, 2022.

1 INDEX

2 Statutes amended in order of appearance

3 215 ILCS 5/35B-25

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

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

6 215 ILCS 5/131.14b

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

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

9 215 ILCS 5/131.22a new

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