

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 COMMITTEE SUBSTITUTE  
4 FOR  
5 SENATE BILL 1488

6  
7 By: Quinn

8 COMMITTEE SUBSTITUTE

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

reinsures; providing method for domestic ceding insurers to qualify for certain reinsurance; providing method of securing obligations with certain trust instrument; stating nonapplication of certain surplus requirements; specifying method for reduction of allowable credit when security is insufficient; stating status for certain reinsurers that have certification terminated; defining certain term; providing for certain nonapplication for certain ratings; authorizing certification when applicants are certified under certain jurisdiction; allowing for inactive status; providing requirements; adding reference for credit requirements; deleting certain defined terms; authorizing the Insurance Commissioner to suspend or revoke accreditation and certification; stating procedures; requiring ceding insurers to manage certain reinsurance recoverables; providing procedures; requiring ceding insurers to diversify their reinsurance programs; providing procedures; authorizing the Insurance Commissioner to adopt certain regulations relating to assets, credits and forms of security; clarifying meaning of securities; defining terms; authorizing the Insurance Commissioner to adopt certain rules; stating certain application of rules under certain circumstances; stating nonapplication of rules to certain insurers; clarifying authority to adopt certain regulations; modifying dates of application of certain act; amending 36 O.S. 2011, Section 5124, which relates to rules and regulations; authorizing the Insurance Commissioner to adopt certain rules and regulations; specifying types of regulations; specifying certain dates of treaties; authorizing ceding insurers the use of certain manual information under certain conditions; prohibiting certain regulations; amending 36 O.S. 2011, Section 5125, which relates to application of amendments to act; modifying dates of application of amendments; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 36 O.S. 2011, Section 5122, is

amended to read as follows:

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

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

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

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

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

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

1 2 4. Files annually with the Insurance Commissioner a copy of its  
1 3 annual statement filed with the insurance department of its state of  
1 4 domicile and a copy of its most recent audited financial statement,  
1 5 ~~and either:~~; and

1 6 a.

1 7 5. Demonstrates to the satisfaction of the Insurance  
1 8 Commissioner that it has adequate financial capacity to meet its  
1 9 reinsurance obligations and is otherwise qualified to assume  
2 0 reinsurance from domestic insurers. An assuming insurer is deemed  
2 1 to meet this requirement as of the time of its application if it  
2 2 maintains a surplus as regards policyholders in an amount ~~which is~~  
2 3 not less than Twenty Million Dollars (\$20,000,000.00) and ~~whose~~ its  
2 4 accreditation has not been denied by the Insurance Commissioner

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

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

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

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

17 1. Maintains a surplus as regards policyholders in an amount  
18 not less than Twenty Million Dollars (\$20,000,000.00); and  
19 2. Submits to the authority of this state to examine its books  
20 and records.

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

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

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

- 1                   a. the Commissioner of the state where the trust is  
2                   domiciled, or
- 1                   b. the Commissioner of another state who, pursuant to the  
2                   terms of the trust instrument, has accepted principal  
3                   regulatory oversight of the trust.

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

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

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

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

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

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

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

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

c. (1) in the case of a group including incorporated and individual unincorporated underwriters:

(a) for reinsurance ceded under reinsurance agreements with an inception, amendment or renewal date on or after ~~August 1, 1995~~

January 1, 1993, the trust shall consist of a trustee account in an amount not less than the ~~group's~~ respective underwriters' several liabilities attributable to business ceded by United States-domiciled ceding insurers to any ~~member~~ underwriter of the group,

(b) for reinsurance ceded under reinsurance agreements with an inception date on or before July 31, 1995 December 31, 1992, and not amended or renewed after that date, notwithstanding the other provisions of this act, the trust shall consist of a trustee account in an amount not less than the group's respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States, and

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

- (2) the incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members, and
- (3) within ninety (90) days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the Commissioner an annual certification by the group's domiciliary regulator of the solvency of each underwriter member; or if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the group, and

6.

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

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

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

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

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

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

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

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

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

- a. the assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the Commissioner pursuant to paragraph 3 of this subsection,
- b. the assuming insurer must maintain minimum capital and surplus, or its equivalent, in an amount to be determined by the Commissioner pursuant to regulation,
- c. the assuming insurer must maintain financial strength ratings from two or more rating agencies deemed acceptable by the Commissioner pursuant to regulation,
- d. the assuming insurer must agree to submit to the jurisdiction of this state, appoint the Commissioner as its agent for service of process in this state and agree to provide security for one hundred percent

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

- e. the assuming insurer must agree to meet applicable information filing requirements as determined by the Commissioner, both with respect to an initial application for certification and on an ongoing basis, and
- f. the assuming insurer must satisfy any other requirements for certification deemed relevant by the Commissioner;

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

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

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

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

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

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

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

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

- c. United States jurisdictions that meet the requirement for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions,
- d. if a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the Commissioner may at his or her discretion suspend the reinsurer's certification indefinitely, in lieu of revocation;

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

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

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

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

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

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

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

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

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

e. for purposes of this subsection, a certified reinsurer whose certification has been terminated for any reason shall be treated as a certified reinsurer required to secure one hundred percent (100%) of its obligations,

(1) as used in this subsection, the term "terminated" refers to revocation, suspension, voluntary surrender and inactive status, and

(2) if the Commissioner continues to assign a higher rating as permitted by other provisions of this section, this requirement does not apply to a

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

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

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

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

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

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

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

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

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

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

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

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

1       3. If the Commissioner with regulatory oversight determines  
2 that the assets of the trust fund or any part thereof are not  
3 necessary to satisfy the claims of the United States ceding insurers  
4 of the grantor of the trust, the assets or part thereof shall be  
5 returned by the Commissioner with regulatory oversight to the  
6 trustee for distribution in accordance with the trust agreement; and

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

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

3 a. is organized or, in the case of a United States office  
4 of a foreign banking organization, is licensed under  
5 the laws of the United States or any state thereof,  
6 b. is regulated, supervised and examined by federal or  
7 state authorities having regulatory authority over  
8 banks and trust companies, and  
9 c. has been determined by either the Insurance  
10 Commissioner, or the Securities Valuation Office of  
11 the National Association of Insurance Commissioners,  
12 to meet such standards of financial condition and  
13 standing as are considered necessary and appropriate  
14 to regulate the quality of financial institutions  
15 whose letters of credit will be acceptable to the  
16 Commissioner.

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

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

1 state thereof and has been granted authority to  
2 operate with fiduciary powers, and  
3 b. is regulated, supervised and examined by federal or  
4 state authorities having regulatory authority over  
5 banks and trust companies.

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

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

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

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

1 1       K. Concentration Risk.

1 2       1. A ceding insurer shall take steps to manage its reinsurance  
1 3       recoverables proportionate to its own book of business. A domestic  
1 4       ceding insurer shall notify the Commissioner within thirty (30) days  
1 5       after reinsurance recoverables from any single assuming insurer, or  
1 6       group of affiliated assuming insurers, exceeds fifty percent (50%)  
1 7       of the domestic ceding insurer's last reported surplus to  
1 8       policyholders, or after it is determined that reinsurance  
1 9       recoverables from any single assuming insurer, or group of  
2 0       affiliated assuming insurers, is likely to exceed this limit. The  
2 1       notification shall demonstrate that the exposure is safely managed  
2 2       by the domestic ceding insurer.

2 3       2. A ceding insurer shall take steps to diversify its  
2 4       reinsurance program. A domestic ceding insurer shall notify the

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

SECTION 2. AMENDATORY 36 O.S. 2011, Section 5123, is

amended to read as follows:

36 O.S. 2011, Section 5123, is

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

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

7 1. Cash;

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

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

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

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

4. Any other form of security acceptable to the Insurance

Commissioner.

SECTION 3. NEW LAW A new section of law to be codified

in the Oklahoma Statutes as Section 5123.1 of Title 36, unless there is created a duplication in numbering, reads as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 8 a. is certified in this state, or
- 9 b. maintains at least Two Hundred Fifty Million Dollars  
10 (\$250,000,000.00) in capital and surplus when  
11 determined in accordance with the NAIC Accounting  
12 Practices and Procedures Manual, including all  
13 amendments thereto adopted by the NAIC, excluding the  
14 impact of any permitted or prescribed practices; and  
15 is:
- 16 (1) licensed in at least twenty-six states, or
- 17 (2) licensed in at least ten states, and licensed or  
18 accredited in a total of at least thirty-five  
19 states,

20 5. The authority to adopt regulations pursuant to subsection B  
21 of this section does not limit the Commissioner's general authority  
22 to adopt regulations pursuant to subsection A of this section.

23 SECTION 5. AMENDATORY 36 O.S. 2011, Section 5125, is  
24 amended to read as follows:

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

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

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