

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

SENATE BILL 1488

By: Quinn

AS INTRODUCED

An Act relating to credit for reinsurance; amending 36 O.S. 2011, Sections 5122 and 5123, which relate to credit allowance and securities; modifying requirements to be an accredited reinsurer; clarifying person making certain accreditation; requiring reinsurers to demonstrate financial capacity; modifying terms of financial capacity; updating statutory references; clarifying authority to approve credit for reinsurance; modifying certain deadline date; modifying terms of reporting; decreasing required surplus for certain categories of trusts under certain circumstances; modifying dates and conforming language; specifying when certain credit is allowed; providing insurer requirements for certification; authorizing certain associations to be 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;

1 providing method of securing obligations with certain
2 trust instrument; stating nonapplication of certain
3 surplus requirements; specifying method for reduction
4 of allowable credit when security is insufficient;
5 stating status for certain reinsurers that have
6 certification terminated; defining certain term;
7 providing for certain nonapplication for certain
8 ratings; authorizing certification when applicants
9 are certified under certain jurisdiction; allowing
10 for inactive status; providing requirements; adding
11 reference for credit requirements; deleting certain
12 defined terms; authorizing the Insurance Commissioner
13 to suspend or revoke accreditation and certification;
14 stating procedures; requiring ceding insurers to
15 manage certain reinsurance recoverables; providing
16 procedures; requiring ceding insurers to diversify
17 their reinsurance programs; providing procedures;
18 authorizing the Insurance Commissioner to adopt
19 certain regulations relating to assets, credits and
20 forms of security; clarifying meaning of securities;
21 defining terms; authorizing the Insurance
22 Commissioner to adopt certain rules; stating certain
23 application of rules under certain circumstances;
24 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:

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

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

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

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

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

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

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

16 ~~a.~~

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

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

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

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

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

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

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

21 The requirement of paragraph 1 of this subsection does not apply
22 to reinsurance ceded and assumed pursuant to pooling arrangements
23 among insurers in the same holding company system.
24

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

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

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

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

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

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

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

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

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

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

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

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

- 1 c. (1) in the case of a group including
2
3 incorporated and individual unincorporated
4 underwriters:
5
6 (a) for reinsurance ceded under reinsurance
7 agreements with an inception, amendment or
8 renewal date on or after ~~August 1, 1995~~
9 January 1, 1993, the trust shall consist of
10 a trusted account in an amount not less
11 than the ~~group's~~ respective underwriters'
12 several liabilities attributable to business
13 ceded by United States-domiciled ceding
14 insurers to any ~~member~~ underwriter of the
15 group,
16
17 (b) for reinsurance ceded under reinsurance
18 agreements with an inception date on or
19 before ~~July 31, 1995~~ December 31, 1992, and
20 not amended or renewed after that date,
21 notwithstanding the other provisions of this
22 act, the trust shall consist of a trusted
23 account in an amount not less than the
24 ~~group's~~ respective underwriters' several
 insurance and reinsurance liabilities
 attributable to business written in the
 United States, and

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

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

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

23 ~~e.~~ d. in the case of a group of incorporated underwriters
24 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

1 each underwriter member of the group prepared by
2 its independent public accountant.

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

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

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

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

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

19 d. the assuming insurer must agree to submit to the
20 jurisdiction of this state, appoint the Commissioner
21 as its agent for service of process in this state and
22 agree to provide security for 100 percent (100%) of
23 the assuming insurer's liabilities attributable to
24 reinsurance ceded by United States ceding insurers if

1 it resists enforcement of a final United States
2 judgment,

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

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

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

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

23 b. the incorporated members of the association shall not
24 be engaged in any business other than underwriting as

1 a member of the association and shall be subject to
2 the same level of regulation and solvency control by
3 the association's domiciliary regulator as are the
4 unincorporated members, and

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

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

18 a. in order to determine whether the domiciliary
19 jurisdiction of a non-United States assuming insurer
20 is eligible to be recognized as a qualified
21 jurisdiction, the Commissioner shall evaluate the
22 appropriateness and effectiveness of the reinsurance
23 supervisory system of the jurisdiction, both
24 initially and on an ongoing basis, and consider the

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

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

23 c. United States jurisdictions that meet the requirement
24 for accreditation under the NAIC financial standards

1 and accreditation program shall be recognized as
2 qualified jurisdictions,

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

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

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

17 a. in order for a domestic ceding insurer to qualify for
18 full financial statement credit for reinsurance ceded
19 to a certified reinsurer, the certified reinsurer
20 shall maintain security in a form acceptable to the
21 Commissioner and consistent with the provisions of
22 Section 5123 of this title, or in a multibeneficiary
23 trust in accordance with subsection E of this section,
24 except as otherwise provided in this subsection,

- 1 b. if a certified reinsurer maintains a trust to fully
2 secure its obligations subject to subsection E of this
3 section, and chooses to secure its obligations
4 incurred as a certified reinsurer in the form of a
5 multibeneficiary trust, the certified reinsurer shall
6 maintain separate trust accounts for its obligations
7 incurred under reinsurance agreements issued or
8 renewed as a certified reinsurer with reduced security
9 as permitted by this subsection or comparable laws of
10 other United States jurisdictions and for its
11 obligations subject to subsection E of this section.
12 It shall be a condition to the grant of certification
13 under this subsection that the certified reinsurer
14 shall have bound itself, by the language of the trust
15 and agreement with the Commissioner with principal
16 regulatory oversight of each such trust account, to
17 fund, upon termination of any such trust account, out
18 of the remaining surplus of such trust any deficiency
19 of any other such trust account,
- 20 c. the minimum trustee surplus requirements provided in
21 subsection E of this section are not applicable
22 with respect to a multibeneficiary trust maintained by
23 a certified reinsurer for the purpose of securing
24 obligations incurred under this subsection, except

1 that such trust shall maintain a minimum trusteeed
2 surplus of Ten Million Dollars (\$10,000,000.00),

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

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

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

19 (2) if the Commissioner continues to assign a higher
20 rating as permitted by other provisions of this
21 section, this requirement does not apply to a
22 certified reinsurer in inactive status or to a
23 reinsurer whose certification has been suspended.
24

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

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

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

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

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

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

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

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

22 1. Notwithstanding any other provisions in the trust
23 instrument, if the trust fund is inadequate because it contains an
24 amount less than the amount required by paragraph 4 6 of subsection

1 E of this section, or if the grantor of the trust has been declared
2 insolvent or placed into receivership, rehabilitation, liquidation
3 or similar proceedings under the laws of its state or country of
4 domicile, the trustee shall comply with an order of the Commissioner
5 with regulatory oversight over the trust or with an order of a court
6 of competent jurisdiction directing the trustee to transfer to the
7 Commissioner with regulatory oversight all of the assets of the
8 trust fund;

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

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

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

22 J. ~~1. For purposes of subsection E of this section, "qualified~~
23 ~~United States financial institution" means an institution that:~~
24

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

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

19 ~~a. is organized or (in the case of a United States branch~~
20 ~~or agency office of a foreign banking organization)~~
21 ~~licensed under the laws of the United States or any~~
22 ~~state thereof and has been granted authority to~~
23 ~~operate with fiduciary powers, and~~
24

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

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

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

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

22 2. While a reinsurer's accreditation or certification is
23 suspended, no reinsurance contract issued or renewed after the
24 effective date of the suspension qualifies for credit except to the

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

8 K. Concentration Risk.

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

20 2. A ceding insurer shall take steps to diversify its
21 reinsurance program. A domestic ceding insurer shall notify the
22 Commissioner within thirty (30) days after ceding to any single
23 assuming insurer, or group of affiliated assuming insurers, more
24 than twenty percent (20%) of the ceding insurer's gross written

1 premium in the prior calendar year, or after it has determined that
2 the reinsurance ceded to any single assuming insurer, or group of
3 affiliated assuming insurers, is likely to exceed this limit. The
4 notification shall demonstrate that the exposure is safely managed
5 by the domestic ceding insurer.

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

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

1 trust, held in a qualified United States financial institution, as
2 defined in Section ~~5122~~ 5123.1 of this title. This security may be
3 in ~~one or more of the following forms~~ form of:

4 1. Cash;

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

10 3. ~~Any other form of security acceptable to the Insurance~~
11 ~~Commissioner; and~~

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

21 b. ~~Letters~~ letters of credit meeting applicable standards
22 of issuer acceptability as of the dates of their
23 issuance or confirmation shall, notwithstanding the
24 issuing or confirming institution's subsequent failure

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

5 4. Any other form of security acceptable to the Insurance
6 Commissioner.

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

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

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

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

19 3. Has been determined by either the Insurance Commissioner or
20 the Securities Valuation Office of the National Association of
21 Insurance Commissioners to meet such standards of financial
22 condition and standing as are considered necessary and appropriate
23 to regulate the quality of financial institutions whose letters of
24 credit will be acceptable to the Commissioner.

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

- 5 1. Is organized, or, in the case of a United States branch
6 or agency office of a foreign banking organization,
7 licensed under the laws of the United States or any
8 state thereof and has been granted authority to
9 operate with fiduciary powers; and
- 10 2. Is regulated, supervised and examined by federal or
11 state authorities having regulatory authority over
12 banks and trust companies.

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

15 Section 5124. A. The Insurance Commissioner may promulgate and
16 adopt rules and regulations implementing the provisions of the
17 Credit for Reinsurance Act.

18 B. The Insurance Commissioner is further authorized to adopt
19 rules and regulations applicable to reinsurance arrangements
20 described in paragraph 1 of this subsection.

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

- 23 a. life insurance policies with guaranteed nonlevel gross
24 premiums or guaranteed nonlevel benefits,

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

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

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

3. A regulation adopted pursuant to subsection B of this section may require the ceding insurer, in calculating the amounts or forms of security required to be held under regulations promulgated under this authority, to use the Valuation Manual adopted by the NAIC under Section 11B (1) of the NAIC Standard Valuation Law, including all amendments adopted by the NAIC and in

1 effect on the date as of which the calculation is made, to the
2 extent applicable;

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

- 5 a. is certified in this state or, if this state has not
6 adopted provisions substantially equivalent to Section
7 2E of the NAIC Credit for Reinsurance Model Law,
8 certified in a minimum of five other states, 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 licensed in at least twenty-six states or licensed
16 in at least ten states, and licensed or accredited in
17 a total of at least thirty-five states,

18 5. The authority to adopt regulations pursuant to subsection B
19 of this section does not limit the commissioner's general authority
20 to adopt regulations pursuant to subsection A of this section.

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

23 Section 5125. The amendments to the Credit for Reinsurance Act
24 provided for in ~~this act~~ Sections 5121 through 5125 of this title,

1 shall apply to all cessions on and after ~~November 1, 2000~~ November
2 1, 2016, under reinsurance agreements ~~which~~ that have had an
3 inception, anniversary⁷ or renewal date not less than six (6) months
4 after ~~November 1, 2000~~ November 1, 2016.

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

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