

1 AN ACT relating to insurance financial standards.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 304.6-134 is amended to read as follows:

4 ~~A[(1)The commissioner may exempt]~~ specific product form~~[forms]~~ or product line~~[lines]~~
5 of a domestic company~~[,]~~ that is licensed and doing business only in Kentucky ***shall***
6 ***be exempt***~~[,]~~ from the requirements of KRS 304.6-143 if:

7 ~~(1)[(a)]~~ The commissioner has ***in his or her discretion*** issued an exemption in writing
8 to the company and has not subsequently revoked the exemption in writing; and

9 ~~(2)[(b)]~~ ***Either of the following are satisfied:***

10 ~~(a)~~ The company computes reserves using assumptions and methods used prior to
11 the operative date of the valuation manual; ***or***

12 ~~(b) The exemption is consistent with the valuation manual~~ and any
13 requirements established by the commissioner and promulgated by
14 administrative regulation.

15 ~~(2) A domestic company that has less than three hundred million dollars~~
16 ~~(\$300,000,000) of ordinary life premiums or a company that is a member of a group~~
17 ~~of life insurers that has combined ordinary life premiums of less than six hundred~~
18 ~~million dollars (\$600,000,000) and that is licensed and doing business in Kentucky~~
19 ~~is exempt from the requirements of KRS 304.6-143 and 304.6-151 if:~~

20 ~~(a) The appointed actuary has provided an unqualified opinion on the reserves in~~
21 ~~accordance with KRS 304.6-171 for the prior calendar year; and~~

22 ~~(b) The company has provided a certification by a qualified actuary that any universal~~
23 ~~life policy with a secondary guarantee, issued or assumed by the company after the~~
24 ~~operative date of the valuation manual, meets the definition of a nonmaterial~~
25 ~~secondary guarantee universal life product as defined in the valuation manual.~~

26 ~~(3) For purposes of subsection (2) of this section, ordinary life premiums are measured~~
27 ~~as direct, plus reinsurance assumed from an unaffiliated company, from the prior~~

1 ~~calendar year annual statement.~~

2 ~~(4) A domestic company that meets the requirements of subsection (2) of this section~~
3 ~~shall file a statement with the commissioner certifying that these requirements have~~
4 ~~been met for the current calendar year based on premiums and other values from the~~
5 ~~prior calendar year's financial statements prior to July 1 of the current calendar~~
6 ~~year.~~

7 ~~(5) For a domestic company that files a statement under subsection (4) of this section,~~
8 ~~KRS 304.6 130, 304.6 132, 304.6 133, 304.6 140, 304.6 141, 304.6 145, 304.6~~
9 ~~150, 304.6 155, 304.6 160, 304.6 170, 304.6 171, 304.6 180, and 304.15 410 shall~~
10 ~~be applicable; however, any references to KRS 304.6 143 and 304.6 151 shall not~~
11 ~~apply.~~

12 ➔Section 2. KRS 304.37-020 is amended to read as follows:

13 (1) As used in this section:

14 (a) "Group capital calculation instructions" means the group capital calculation
15 instructions adopted or amended by the NAIC in accordance with procedures
16 adopted by the NAIC; and

17 (b) 1. "NAIC Liquidity Stress Test Framework" means a separate NAIC
18 publication that includes:

19 a. A history of the NAIC's development of regulatory liquidity stress
20 testing; and

21 b. The following, as adopted or amended by the NAIC in accordance
22 with procedures adopted by the NAIC:

23 i. The scope criteria applicable for a specific data year; and

24 ii. The liquidity stress test instructions and reporting templates
25 for a specific data year.

26 2. As used in this paragraph, "scope criteria" means the designated
27 exposure bases, along with minimum magnitudes thereof for the

1 specified data year, used to establish a preliminary list of insurers
2 considered scoped into the NAIC Liquidity Stress Test Framework for
3 that data year.

4 (2) (a) Every insurer that is authorized to do business in this state and is a member of
5 an insurance holding company system shall register with the commissioner,
6 except a foreign or alien insurer subject to disclosure requirements and
7 standards adopted by statute or regulation in the jurisdiction of its domicile
8 that are substantially similar to those contained in this section.

9 (b) For an alien insurer, the domiciliary state shall be deemed to be its state of
10 entry.

11 (c) Any insurer that is subject to registration under this section shall register
12 fifteen (15) days after it becomes subject to registration and annually
13 thereafter by April 1 of each year for the previous calendar year, unless the
14 commissioner for good cause shown extends the time for registration and
15 then, within the extended time.

16 (d) The commissioner may require any authorized insurer that is a member of a
17 holding company system but is not subject to registration under this section to
18 furnish a copy of the registration statement or other information filed by the
19 insurer with the insurance regulatory authority of its domiciliary jurisdiction.

20 (3) Every insurer subject to registration shall file a registration statement on a form
21 provided by the commissioner, which shall contain current information about:

22 (a) The capital structure, general financial condition, ownership, and management
23 of the insurer and any person controlling the insurer;

24 (b) The identity of every member of the insurance holding company system;

25 (c) The following agreements in force, relationships subsisting, and transactions
26 currently outstanding between the insurer and its affiliates:

27 1. Loans to, other investments in, or purchases, sales, or exchanges of

- 1 securities of the affiliates by the insurer or of the insurer by its affiliates;
- 2 2. Purchases, sales, or exchanges of assets;
- 3 3. Transactions not in the ordinary course of business;
- 4 4. Guarantees or undertakings for the benefit of an affiliate which result in
- 5 an actual contingent exposure of the insurer's assets to liability, other
- 6 than insurance contracts entered in the ordinary course of the insurer's
- 7 business;
- 8 5. All management and service contracts and all cost-sharing
- 9 arrangements;
- 10 6. All reinsurance agreements;
- 11 7. Dividend and other distributions to shareholders; and
- 12 8. Consolidated tax allocation agreements;
- 13 (d) Any pledge of the insurer's stock, including stock of any subsidiary or
- 14 controlling affiliate for a loan made to any member of the insurance holding
- 15 company system;
- 16 (e) 1. If requested by the commissioner, financial statements of, or within, an
- 17 insurance holding company system, including all affiliates.
- 18 2. Financial statements may include but are not limited to annual audited
- 19 financial statements filed with the United States Securities and
- 20 Exchange Commission, pursuant to the Securities Act of 1933, as
- 21 amended, or the Securities Exchange Act of 1932, as amended.
- 22 3. An insurer required to file financial statements pursuant to this
- 23 paragraph may satisfy the request by providing the commissioner with
- 24 the most recently filed parent corporation financial statements that have
- 25 been filed with the United States Securities and Exchange Commission;
- 26 (f) Other matters concerning transactions between registered insurers and any
- 27 affiliates as may be included from time to time in any registration forms

1 adopted or approved by the commissioner;

2 (g) Statements that the insurer's:

3 1. Board of directors oversees corporate governance and internal controls;

4 and

5 2. Officers or senior management have approved, implemented, and

6 continue to maintain and monitor corporate governance and internal

7 control procedures; and

8 (h) Any other information required by the commissioner through administrative

9 regulations.

10 (4) (a) It shall not be necessary to disclose information on the registration statement
11 filed pursuant to subsection (3) of this section if the information is not
12 material for the purposes of this section.

13 (b) Unless the commissioner by administrative regulation or order provides
14 otherwise, sales, purchases, exchanges, loans, or extensions of credit, or
15 investments, involving one-half of one percent (0.5%) or less of an insurer's
16 admitted assets as of the thirty-first day of December next preceding shall not
17 be deemed material for purposes of this section.

18 (c) The materiality guidelines provided in this subsection shall not apply for
19 purposes of the information required under subsections (15) and (16) of this
20 section.

21 (5) Each registered insurer shall keep current the information required to be disclosed
22 in its registration statement by reporting all material changes or additions on
23 amendment forms provided by the commissioner within:

24 (a) Except as provided in paragraph (b) of this subsection, thirty (30) days after
25 the end of the month in which the insurer learns of each change or addition;

26 or

27 (b) A timeframe established by the commissioner in accordance with the

1 reporting standards prescribed by the National Association of Insurance
2 Commissioners.

- 3 (6) All registration statements shall contain a summary outlining all items in the current
4 registration statement representing changes from the prior registration statement.
- 5 (7) Subject to KRS 304.37-030(5), each registered insurer shall report to the
6 commissioner all dividends and other distributions to shareholders within fifteen
7 (15) business days following the dividend or distribution declaration.
- 8 (8) Any person within an insurance holding company system subject to registration
9 shall be required to provide complete and accurate information to an insurer, if the
10 information is reasonably necessary to enable the insurer to comply with the
11 provisions of this subtitle.
- 12 (9) The commissioner shall terminate the registration of any insurer which
13 demonstrates that it no longer is a member of an insurance holding company
14 system.
- 15 (10) The commissioner may require or allow two (2) or more affiliated insurers subject
16 to registration to file a consolidated registration statement or consolidated reports
17 amending their consolidated registration statement or their individual registration
18 statements.
- 19 (11) The commissioner may allow an insurer that is authorized to do business in this
20 state and which is part of an insurance holding company system to:
- 21 (a) Register on behalf of any affiliated insurer that is required to register under
22 subsection (2) of this section; and
- 23 (b) File all information and material required to be filed under this section.
- 24 (12) The provisions of this section shall not apply to any insurer, information, or
25 transaction if and to the extent that the commissioner by administrative regulation
26 or order exempts it from the provisions of this section.
- 27 (13) (a) Any person may file with the commissioner a disclaimer of affiliation with

1 any authorized insurer or a disclaimer may be filed by the insurer or any
2 member of an insurance holding company system.

3 (b) The disclaimer shall fully disclose all material relationships and bases for
4 affiliation between the persons and the insurer as well as the basis for
5 disclaiming the affiliation.

6 (c) A disclaimer of affiliation shall be deemed to have been granted unless the
7 commissioner, within thirty (30) days following receipt of a complete
8 disclaimer, notifies the filing party the disclaimer is disallowed.

9 (d) In the event of disallowance, the disclaiming party may request an
10 administrative hearing, which shall be granted.

11 (e) The disclaiming party shall be relieved of its duty to register under this
12 section if:

- 13 1. Approval of the disclaimer has been granted by the commissioner; or
- 14 2. The disclaimer is deemed to have been approved.

15 (14) (a) The ultimate controlling person of every insurer subject to registration shall
16 also file an annual enterprise risk report.

17 (b) The report shall:

- 18 1. To the best of the ultimate controlling person's knowledge and belief,
19 identify the material risks within the insurance holding company system
20 that could pose enterprise risk to the insurer; and
- 21 2. Be filed with the lead state commissioner of the insurance holding
22 company system, as determined by the procedures within the Financial
23 Analysis Handbook adopted by the NAIC.

24 (15) (a) Except as provided in this subsection, the ultimate controlling person of every
25 insurer subject to registration shall concurrently file with the registration an
26 annual group capital calculation as directed by the lead state commissioner.

27 (b) The report shall be:

- 1 1. Completed in accordance with the group capital calculation instructions,
2 which may permit the lead state commissioner to allow a controlling
3 person that is not the ultimate controlling person to file the group capital
4 calculation; and
- 5 2. Filed with the lead state commissioner of the insurance holding
6 company system as determined by the commissioner in accordance with
7 the procedures within the Financial Analysis Handbook adopted by the
8 NAIC.
- 9 (c) An insurance holding company system shall be exempt from filing the group
10 capital calculation if:
- 11 1. The system:
- 12 a. Has only one (1) insurer within its holding company structure;
13 b. Only writes business in its domestic state; and
14 c. Assumes no business from any other insurer;
- 15 2. a. The system is required to perform a group capital calculation
16 specified by the United States Federal Reserve Board.
- 17 b. The lead state commissioner shall request the calculation from the
18 Federal Reserve Board under the terms of information sharing
19 agreements in effect. If the Federal Reserve Board cannot share
20 the calculation with the lead state commissioner, the insurance
21 holding company system is not exempt from the group capital
22 calculation filing;
- 23 3. The system's non-United States groupwide supervisor is located within a
24 reciprocal jurisdiction, as defined in KRS 304.5-140, that recognizes the
25 United States state regulatory approach to group supervision and group
26 capital; or
- 27 4. The system:

- 1 a. Provides information to the lead state that meets the requirements
2 for accreditation under the NAIC Financial Regulation Standards
3 and Accreditation Program, either directly or indirectly, through
4 the groupwide supervisor, who has determined the information is
5 satisfactory to allow the lead state to comply with the NAIC group
6 supervision approach, as detailed in the NAIC Financial Analysis
7 Handbook; and
- 8 b. Has a non-United States groupwide supervisor, which is not in a
9 reciprocal jurisdiction as defined in KRS 304.5-140, that
10 recognizes and accepts, as specified by the commissioner in
11 administrative regulation, the group capital calculation as the
12 worldwide group capital assessment for United States insurance
13 groups who operate in that jurisdiction.
- 14 (d) Notwithstanding the provisions of paragraph (c)3. and 4. of this subsection, a
15 lead state commissioner shall require the group capital calculation for the
16 United States operations of any insurance holding company system not based
17 in the United States where, after any necessary consultation with other
18 supervisors or officials, it is deemed appropriate by the lead state
19 commissioner for:
- 20 1. Prudential oversight and solvency monitoring purposes; or
21 2. Ensuring the competitiveness of the insurance marketplace.
- 22 (e) In addition to the exemptions established in paragraph (c) of this subsection,
23 the lead state commissioner may exempt the ultimate controlling person from
24 filing the annual group capital calculation or accept a limited group capital
25 filing or report in accordance with criteria specified by the commissioner in
26 administrative regulation.
- 27 (f) If the lead state commissioner determines that an insurance holding company

1 system no longer meets one (1) or more of the requirements for an exemption
2 from filing the group capital calculation under this subsection, the system
3 shall file the group capital calculation at the next annual filing date unless
4 given an extension by the lead state commissioner based on reasonable
5 grounds shown.

6 (16) (a) The ultimate controlling person of every insurer subject to registration and
7 also scoped into the NAIC Liquidity Stress Test Framework shall file the
8 results of a specific year's liquidity stress test.

9 (b) The filing shall be made to the lead state commissioner of the insurance
10 holding company system, as determined by the procedures within the
11 Financial Analysis Handbook adopted by the NAIC.

12 (c) 1. The NAIC Liquidity Stress Test Framework shall include scope criteria:
13 a. Applicable to a specific data year; and
14 b. Reviewed at least annually by the NAIC's Financial Stability Task
15 Force or its successor.
16 2. Any change to the NAIC Liquidity Stress Test Framework or to the data
17 year for which the scope criteria are to be measured shall be effective on
18 January 1 of the year following the calendar year when the changes are
19 adopted.
20 3. a. Insurers meeting at least one (1) threshold of the scope criteria
21 shall be considered scoped into the NAIC Liquidity Stress Test
22 Framework for the specified data year unless the lead state
23 commissioner, in consultation with the NAIC Financial Stability
24 Task Force or its successor, determines the insurer should not be
25 scoped into the framework for that data year.
26 b. Insurers that do not trigger at least one (1) threshold of the scope
27 criteria shall be considered scoped out of the NAIC Liquidity

1 Stress Test Framework for the specified data year, unless the lead
2 state commissioner, in consultation with the NAIC Financial
3 Stability Task Force or its successor, determines the insurer should
4 be scoped into the framework for that data year.

5 4. The lead state commissioner, in consultation with the NAIC Financial
6 Stability Task Force or its successor, shall assess concerns related to
7 insurers being scoped in and out of the NAIC Liquidity Stress Test
8 Framework on a frequent basis as part of the scope criteria
9 determination for an insurer.

10 (d) The performance of, and the filing of the results from, a specified year's
11 liquidity stress test shall comply with:

12 1. The NAIC Liquidity Stress Test Framework's instructions and reporting
13 templates for that year; and

14 2. Any lead state commissioner determinations, made in consultation with
15 the NAIC Financial Stability Task Force or its successor, provided
16 within the NAIC Liquidity Stress Test Framework.

17 (17) The failure to file a registration statement or any amendment thereto, a summary of
18 the registration statement, an enterprise risk filing, or any other filing or report
19 required by this section within the time specified for the filing or report shall be a
20 violation of this subtitle.

21 ➔Section 3. KRS 304.5-140 is amended to read as follows:

22 (1) (a) For the purposes of subsection (4)(c) of this section, a "qualified United States
23 financial institution" means an institution that:

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

27 2. Is regulated, supervised, and examined by the United States federal or

1 state authorities having regulatory authority over banks and trust
2 companies; and

3 3. Has been determined by the commissioner, or the Securities Valuation
4 Office of the NAIC, to meet the standards of financial condition and
5 standing considered necessary and appropriate to regulate the quality of
6 financial institutions whose letters of credit will be acceptable to the
7 commissioner.

8 (b) A "qualified United States financial institution" means, for purposes of those
9 provisions of this section specifying those institutions that are eligible to act
10 as a fiduciary of a trust, an institution that:

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

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

17 (c) For purposes of subsection (3)(f)1. of this section, "reciprocal jurisdiction"
18 means a jurisdiction that meets one (1) of the following:

19 1. A non-United States jurisdiction that is subject to an in-force covered
20 agreement with the United States, each within its legal authority, or, in
21 the case of a covered agreement between the United States and the
22 European Union, is a member state of the European Union;

23 2. A United States jurisdiction that meets the requirements for
24 accreditation under the NAIC's financial standards and accreditation
25 program;

26 3. A qualified jurisdiction, as determined by the commissioner pursuant to
27 subsection (3)(e)4. of this section, which is not otherwise described in

1 this paragraph, and which meets certain additional requirements,
2 consistent with the terms and conditions of in-force covered agreements,
3 as specified by the commissioner in administrative regulation; or

4 4. Any other jurisdiction contained on the list of reciprocal jurisdictions
5 published by the commissioner in accordance with subsection (3)(g) of
6 this section.

7 (d) As used in this section:

8 1. "Covered agreement" means an agreement entered into pursuant to the
9 Dodd-Frank Wall Street Reform and Consumer Protection Act, 31
10 U.S.C. secs. 313 and 314, and that is currently in effect or in a period of
11 provisional application and addresses the elimination, under specified
12 conditions, of collateral requirements as a condition for entering into
13 any reinsurance agreement with the ceding insurer domiciled in this
14 state or for allowing the ceding insurer to recognize credit for
15 reinsurance; and

16 2. "NAIC" means National Association of Insurance Commissioners.

17 (2) (a) Credit for reinsurance shall be allowed a ceding insurer as either an asset or a
18 deduction from liability on account of reinsurance ceded only when the
19 reinsurer meets the requirements of:

20 1. Subsection (3)(a), (b), (c), (d), (e), (f), or (h) of this section; and

21 2. Paragraphs (b), (c), (d), and (e) of this subsection.

22 (b) The commissioner may promulgate administrative regulations pursuant to
23 subsection (8)(a)2. of this section that establish specific additional
24 requirements relating to or setting forth:

25 1. The valuation of assets or reserve credits;

26 2. The amount and forms of security supporting reinsurance arrangements
27 described in that subsection; and

1 3. The circumstances pursuant to which credit will be reduced or
2 eliminated.

3 (c) For reinsurers meeting the requirements of subsection (3)(c) of this section,
4 the requirements of paragraph (i) of that subsection shall also be met.

5 (d) For reinsurers meeting the requirements of subsection (3)(d) of this section,
6 the requirements of paragraphs (i) and (j) of that subsection shall also be met.

7 (e) For reinsurers meeting the requirements of subsection (3)(e) of this section,
8 the requirements of paragraph (j) of that subsection shall also be met.

9 (3) (a) Credit shall be allowed when the reinsurance is ceded to an assuming insurer
10 that is authorized to transact insurance or reinsurance in Kentucky.

11 (b) 1. Credit shall be allowed when the reinsurance is ceded to an assuming
12 insurer that is accredited as a reinsurer in Kentucky. An accredited
13 reinsurer is one which:

14 a. Files with the commissioner evidence of its submission to
15 Kentucky's jurisdiction;

16 b. Submits to Kentucky's authority to examine its books and records;

17 c. Is licensed to transact insurance or reinsurance in at least one (1)
18 state, or in the case of a United States branch of an alien assuming
19 insurer, is entered through and licensed to transact insurance or
20 reinsurance in at least one (1) state;

21 d. Files annually with the commissioner a copy of its annual
22 statement filed with the insurance regulatory official of its state of
23 domicile and a copy of its most recent audited financial statement;
24 and

25 e. Demonstrates to the satisfaction of the commissioner that it has
26 adequate financial capacity to meet its reinsurance obligations and
27 is otherwise qualified to assume reinsurance from domestic

1 insurers. An assuming insurer meets the requirements of this
2 subdivision at the time of its application if:

- 3 i. It maintains a surplus as regards policyholders in an amount
4 that is not less than twenty million dollars (\$20,000,000);
5 and
6 ii. Its accreditation has not been denied by the commissioner
7 within ninety (90) days after submission of its accreditation
8 application.

9 2. Credit shall not be allowed a ceding insurer under this paragraph if the
10 assuming insurer's accreditation has been revoked by the commissioner
11 after notice and hearing.

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

- 18 1. Maintains a surplus as regards policyholders in an amount not less than
19 twenty million dollars (\$20,000,000); and
20 2. Submits to the authority of the commissioner to examine its books and
21 records.

22 However, subparagraph 1. of this paragraph shall not apply to reinsurance
23 ceded and assumed pursuant to pooling arrangements among insurers in the
24 same holding company system.

25 (d) 1. Credit shall be allowed when the reinsurance is ceded to an assuming
26 insurer that maintains a trust in a qualified United States financial
27 institution for the payment of valid claims of its United States

1 policyholders and ceding insurers, their assigns, and successors in
2 interest. The assuming insurer shall report annually to the commissioner
3 information substantially the same as that required to be reported on the
4 NAIC annual statement form by authorized insurers to enable the
5 commissioner to determine the sufficiency of the trust.

- 6 2. a. In the case of a single assuming insurer, the trust shall consist of a
7 trustee account representing the assuming insurer's liabilities
8 attributable to business written in the United States and, in
9 addition, except as provided in subdivision b. of this subparagraph,
10 the assuming insurer shall maintain a trustee surplus of not less
11 than twenty million dollars (\$20,000,000).
- 12 b. At any time after the assuming insurer has permanently
13 discontinued underwriting new business secured by the trust for at
14 least three (3) years, the commissioner may authorize a reduction
15 in the trustee surplus required by subdivision a. of this
16 subparagraph, but only after a finding, based on an assessment of
17 the risk, that the new required surplus level is adequate for the
18 protection of United States ceding insurers, policyholders, and
19 claimants in light of a reasonably foreseeable adverse loss
20 development. The risk assessment may involve an actuarial
21 review, including an independent analysis of reserves and cash
22 flows, and shall consider all material risk factors, including, when
23 applicable, the lines of business involved, the stability of the
24 incurred loss estimates, and the effect of the surplus requirements
25 on the assuming insurer's liquidity or solvency. The minimum
26 required trustee surplus may not be reduced to an amount less
27 than thirty percent (30%) of the assuming insurer's liabilities

1 attributable to reinsurance ceded by United States ceding insurers
2 covered by the trust.

3 3. In the case of a group including incorporated and individual
4 unincorporated underwriters:

5 a. The trust shall consist of a trustee account representing the
6 respective underwriter's liabilities attributable to business written
7 in the United States;

8 b. The group shall maintain a trustee surplus of which one hundred
9 million dollars (\$100,000,000) shall be held jointly for the benefit
10 of United States ceding insurers of any member of the group;

11 c. The incorporated members of which group shall not be engaged in
12 any business other than underwriting as a member of the group
13 and shall be subject to the same level of solvency regulation and
14 control by the group's domiciliary regulator as are the
15 unincorporated members; and

16 d. The group shall make available to the commissioner an annual
17 certification of the solvency of each underwriter by the group's
18 domiciliary insurance regulatory official and its independent
19 public accountants.

20 4. In the case of a group of incorporated underwriters under common
21 administration, the group shall:

22 a. Comply with the reporting requirements contained in
23 subparagraph 1. of this paragraph;

24 b. Have continuously transacted insurance business outside the
25 United States for at least three (3) years immediately prior to
26 making an application for accreditation;

27 c. Maintain a trust in an amount not less than the group's several

- 1 liabilities attributable to business ceded by United States ceding
2 insurers to any member of the group pursuant to reinsurance
3 contracts issued in the name of the group;
- 4 d. Maintain an aggregate policyholders' surplus of at least ten billion
5 dollars (\$10,000,000,000);
- 6 e. Maintain a joint trustee surplus of which one hundred million
7 dollars (\$100,000,000) shall be held jointly for the benefit of
8 United States ceding insurers of any member of the group; and
- 9 f. Each member of the group shall make available to the
10 commissioner an annual certification of the member's solvency by
11 the member's domiciliary insurance regulatory official and its
12 independent public accountant.
- 13 5. The trust shall be established in a form approved by the commissioner.
14 The trust instrument shall provide that contested claims shall be valid
15 and enforceable upon the final order of any court of competent
16 jurisdiction in the United States. The trust shall vest legal title to its
17 assets in the trustees of the trust for its United States policyholders and
18 ceding insurers, their assigns, and successors in interest. The trust and
19 the assuming insurer shall be subject to examination as determined by
20 the commissioner. The trust shall remain in effect for as long as the
21 assuming insurer shall have outstanding obligations due under the
22 reinsurance agreements subject to the trust.
- 23 6. No later than February 28 of each year, the trustees of the trust shall
24 report to the commissioner in writing setting forth the balance of the
25 trust and listing the trust's investments at the preceding year end and
26 shall certify the date of termination of the trust, if so planned, or certify
27 that the trust shall not expire prior to the next following December 31.

- 1 (e) 1. Credit shall be allowed when the reinsurance is ceded to an assuming
2 insurer that:
- 3 a. Has been certified by the commissioner as a reinsurer in this state;
4 and
- 5 b. Secures its obligations in accordance with the requirements of this
6 paragraph.
- 7 2. In order to be eligible for certification, the assuming insurer shall:
- 8 a. Be domiciled and licensed to transact insurance or reinsurance in a
9 qualified jurisdiction, as determined by subparagraph 4. of this
10 paragraph;
- 11 b. Maintain minimum capital and surplus, or its equivalent, in an
12 amount to be determined by the commissioner by administrative
13 regulation;
- 14 c. Maintain financial strength ratings from two (2) or more rating
15 agencies deemed acceptable by the commissioner by
16 administrative regulation;
- 17 d. Agree to submit to the jurisdiction of this state, appoint the
18 commissioner as its agent for service of process in this state, and
19 agree to provide security for one hundred percent (100%) of the
20 assuming insurer's liabilities attributable to reinsurance ceded by
21 United States ceding insurers if the assuming insurer resists
22 enforcement of a final United States judgment;
- 23 e. Agree to meet applicable information filing requirements as
24 determined by the commissioner, both with respect to an initial
25 application for certification and on an ongoing basis; and
- 26 f. Satisfy any other relevant requirements for certification as
27 determined by the commissioner.

- 1 3. An association, including incorporated and individual unincorporated
2 underwriters, may be certified as a reinsurer in this state if the
3 association satisfies the requirements of subparagraph 2. of this
4 paragraph and:
- 5 a. The association satisfies its minimum capital and surplus
6 requirements through the capital and surplus equivalents (net of
7 liabilities) of the association and its members, which shall include
8 a joint central fund that may be applied to any unsatisfied
9 obligation of the association or any of its members, in an amount
10 determined by the commissioner to provide adequate protection;
- 11 b. The incorporated members of the association are not engaged in
12 any business other than underwriting as a member of the
13 association and are subject to the same level of regulation and
14 solvency control by the association's domiciliary regulator as are
15 the unincorporated members; and
- 16 c. The association provides the commissioner an annual certification
17 by the association's domiciliary regulator of the solvency of each
18 underwriter member within ninety (90) days after its financial
19 statements are due to be filed with the association's domiciliary
20 regulator, or if a certification is unavailable, financial statements,
21 prepared by independent public accountants, of each underwriter
22 member of the association.
- 23 4. a. The commissioner shall create and publish a list of qualified
24 jurisdictions under which an assuming insurer licensed and
25 domiciled in the qualified jurisdiction is eligible to be considered
26 for certification by the commissioner as a certified reinsurer.
- 27 b. In order to determine whether the domiciliary jurisdiction of an

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

17 c. The commissioner shall consider the list of qualified jurisdictions
18 published through the NAIC's committee process when
19 determining qualified jurisdictions. If the commissioner approves
20 a jurisdiction as qualified that does not appear on the list, the
21 commissioner shall provide justification in accordance with
22 criteria to be developed by the commissioner by administrative
23 regulation.

24 d. Jurisdictions within the United States that meet the requirements
25 for accreditation under the NAIC's financial standards and
26 accreditation program shall be recognized as qualified.

27 e. If a certified reinsurer's domiciliary jurisdiction ceases to be a

1 qualified jurisdiction, the commissioner may revoke or suspend
2 the reinsurer's certification indefinitely, in lieu of revocation.

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

8 6. a. A certified reinsurer shall secure obligations assumed from United
9 States ceding insurers pursuant to this paragraph at a level
10 consistent with its rating as specified by administrative regulation
11 promulgated by the commissioner.

12 b. In order for a domestic ceding insurer to qualify for full financial
13 statement credit for reinsurance ceded to a certified reinsurer, the
14 certified reinsurer shall maintain security in a form acceptable to
15 the commissioner and consistent with subsection (4) of this
16 section, or in a multi-beneficiary trust in accordance with
17 paragraph (d) of this subsection, except as otherwise provided in
18 this paragraph.

19 c. If a certified reinsurer maintains a trust to fully secure its
20 obligations subject to paragraph (d) of this subsection, and chooses
21 to secure its obligations incurred as a certified reinsurer in the
22 form of a multi-beneficiary trust, the certified reinsurer shall
23 maintain separate trust accounts for:

24 i. Its obligations incurred under reinsurance agreements issued
25 or renewed as a certified reinsurer with reduced security as
26 permitted by this paragraph or comparable laws of other
27 United States jurisdictions; and

- 1 ii. Its obligation subject to paragraph (d) of this subsection.
- 2 d. The commissioner shall not grant a certification pursuant to this
- 3 paragraph unless the certified reinsurer agrees to bind itself, by
- 4 language of the trust and agreement with the commissioner with
- 5 principal regulatory oversight of each trust account, to fund, upon
- 6 termination of any applicable trust account, out of the remaining
- 7 surplus of the trust any deficiency of any other trust account.
- 8 e. The minimum trusted surplus requirements provided in paragraph
- 9 (d) of this subsection are not applicable to a multi-beneficiary trust
- 10 maintained by a certified reinsurer for the purpose of securing
- 11 obligations incurred pursuant to this paragraph, except that the
- 12 multi-beneficiary trust shall maintain a minimum trusted surplus
- 13 of ten million dollars (\$10,000,000).
- 14 f. With respect to obligations incurred by a certified reinsurer
- 15 pursuant to this paragraph, if the security is insufficient, the
- 16 commissioner shall reduce the allowable credit by an amount
- 17 proportionate to the deficiency, and the commissioner may impose
- 18 further reductions in allowable credit upon finding that there is a
- 19 material risk that the certified reinsurer's obligations will not be
- 20 paid in full when due.
- 21 g. i. For purposes of this paragraph, a certified reinsurer whose
- 22 certification has been terminated for any reason shall be
- 23 treated as a certified reinsurer required to secure one hundred
- 24 percent (100%) of its obligations.
- 25 ii. As used in this subdivision, "terminated" includes
- 26 revocation, suspension, voluntary surrender, and inactive
- 27 status, except if the commissioner continues to assign a

1 higher rating as permitted by this subsection, a certified
2 reinsurer in inactive status or reinsurer whose certification
3 has been suspended shall not be considered "terminated."

4 7. If an applicant for certification has been certified as a reinsurer in an
5 NAIC-accredited jurisdiction, the commissioner may defer to that
6 jurisdiction's certification and the rating assigned by that jurisdiction,
7 and the reinsurer shall be considered a certified reinsurer in this state.

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

15 (f) Credit shall be allowed when the reinsurance is ceded to an assuming insurer
16 if:

17 1. The assuming insurer has its head office in, or is domiciled in, as
18 applicable, and is licensed in, a reciprocal jurisdiction;

19 2. The assuming insurer has and maintains, on an ongoing basis:

20 a. For assuming insurers that are not associations:

21 i. Minimum capital and surplus, or its equivalent, calculated
22 according to the methodology of its domiciliary jurisdiction,
23 in an amount to be set forth in administrative regulation; and

24 ii. A minimum solvency or capital ratio, as applicable, as set
25 forth in administrative regulation; or

26 b. For assuming insurers that are associations, including incorporated
27 and individual unincorporated underwriters:

- 1 i. Minimum capital and surplus equivalents, net of liabilities,
2 calculated according to the methodology applicable in its
3 domiciliary jurisdiction, and a central fund containing a
4 balance in amounts to be set forth by the commissioner in
5 administrative regulation; and
- 6 ii. A minimum solvency or capital ratio in the reciprocal
7 jurisdiction where the assuming insurer has its head office or
8 is domiciled, as applicable, and is also licensed;
- 9 3. The assuming insurer agrees, and provides adequate assurance, in a form
10 prescribed by the commissioner, to the following:
- 11 a. To provide prompt written notice and explanation to the
12 commissioner if the assuming insurer falls below the minimum
13 requirements set forth in subparagraph 2. of this paragraph, or if
14 any regulatory action is taken against the assuming insurer for
15 serious noncompliance with applicable law;
- 16 b. To submit the assuming insurer's consent, in writing, to the
17 jurisdiction of the courts of this state and to the appointment of the
18 commissioner as an agent for service of process. The
19 commissioner may require that consent for service of process be
20 provided to the commissioner and included in each reinsurance
21 agreement. Nothing in this subdivision shall be construed to limit,
22 or in any way alter, the capacity for the parties to a reinsurance
23 agreement to agree to alternative dispute resolution mechanisms,
24 except to the extent such agreements are unenforceable under
25 applicable insolvency or delinquency laws;
- 26 c. To submit the assuming insurer's consent, in writing, to pay all
27 final judgments, wherever enforcement is sought, obtained by a

- 1 ceding insurer or its legal successor, that have been declared
2 enforceable in the jurisdiction where the judgment was obtained;
- 3 d. To include in each reinsurance agreement, a provision requiring
4 the assuming insurer to provide security in an amount equal to one
5 hundred percent (100%) of the assuming insurer's liabilities
6 attributable to reinsurance ceded pursuant to that agreement if the
7 assuming insurer resists enforcement of a final judgment that is
8 enforceable under the law of the jurisdiction in which it was
9 obtained or a properly enforceable arbitration award, whether
10 obtained by the ceding insurer or by its legal successor on behalf
11 of its resolution estate; and
- 12 e. i. To confirm that the assuming insurer is not presently
13 participating in any solvent scheme of arrangement which
14 involves this state's ceding insurers; and
- 15 ii. To notify the ceding insurer and the commissioner, and to
16 provide security in the amount of one hundred percent
17 (100%) of the assuming insurer's liabilities to the ceding
18 insurer, should the assuming insurer enter into a solvent
19 scheme of arrangement referenced in subpart i. of this
20 subdivision. The security required under this subdivision
21 shall be in a form consistent with the provisions of paragraph
22 (e) of this subsection and subsection (4) of this section, as
23 specified by the commissioner in administrative regulation;
- 24 4. The assuming insurer or its legal successor provides, upon request of the
25 commissioner, on behalf of itself and any legal predecessors, any
26 documentation prescribed by the commissioner in administrative
27 regulation;

- 1 5. The assuming insurer maintains a practice of prompt payment of claims
2 under reinsurance agreements, pursuant to criteria set forth by the
3 commissioner in administrative regulation; and
- 4 6. The assuming insurer's supervisory authority confirms to the
5 commissioner on an annual basis, as of the preceding December 31 or at
6 the annual date otherwise statutorily reported to the reciprocal
7 jurisdiction, that the assuming insurer complies with the requirements of
8 subparagraph 2. of this paragraph.

9 Nothing in this paragraph precludes an assuming insurer from providing
10 the commissioner with information on a voluntary basis.

11 (g) For purposes of paragraph (f) of this subsection:

- 12 1. a. The commissioner shall timely create and publish a list of
13 reciprocal jurisdictions which shall include reciprocal jurisdictions
14 as defined in subsection (1)(c)**1. and 2.** of this section.
- 15 b. The commissioner shall consider, and may approve, any other
16 reciprocal jurisdiction:
- 17 i. On the list of reciprocal jurisdictions published by the NAIC,
18 through the NAIC committee process; and
- 19 ii. That meets the criteria established by the commissioner by
20 administrative regulation.
- 21 c. The commissioner may remove a jurisdiction from the list of
22 reciprocal jurisdictions upon a determination that the jurisdiction
23 no longer meets the requirements of a reciprocal jurisdiction, in
24 accordance with a process established by the commissioner by
25 administrative regulation, except the commissioner shall not
26 remove a reciprocal jurisdiction, as defined in subsection (1)(c)**1.**
27 **and 2.** of this section. Upon removal of a reciprocal jurisdiction

1 from the commissioner's list, credit for reinsurance ceded to an
2 assuming insurer that has its home office or is domiciled in that
3 jurisdiction shall be allowed if otherwise allowed under this
4 section;

- 5 2. a. The commissioner shall timely create and publish a list of
6 assuming insurers that have satisfied the conditions set forth in
7 paragraph (f) of this subsection and to which cessions shall be
8 granted credit in accordance with paragraph (f) of this subsection.
- 9 b. The commissioner may add an assuming insurer to the list
10 described in subdivision a. of this subparagraph if an NAIC-
11 accredited jurisdiction has added the assuming insurer to a list of
12 such assuming insurers, or if upon initial eligibility, the assuming
13 insurer submits information to the commissioner as required under
14 paragraph (f)~~3.4.~~ of this subsection and complies with any
15 additional requirements that the commissioner may impose by
16 administrative regulation, except to the extent that they conflict
17 with an applicable covered agreement.
- 18 c. For purposes of carrying out the provisions of this subparagraph:
- 19 i. If an NAIC-accredited jurisdiction has determined that the
20 conditions set forth in paragraph (f) of this subsection have
21 been met, the commissioner may defer to that jurisdiction's
22 determination;
- 23 ii The commissioner may accept financial documentation filed
24 with another NAIC-accredited jurisdiction or with the NAIC;
- 25 iii. If an assuming insurer requests the commissioner to defer to
26 another NAIC-accredited jurisdiction's determination, the
27 insurer shall submit the request on forms prescribed by the

1 commissioner, and any additional information as the
2 commissioner may require, by administrative regulation,
3 except to the extent that they conflict with an applicable
4 covered agreement; and

5 iv. Upon receiving a request described in subpart iii. of this
6 subdivision, the commissioner shall notify other states
7 through the NAIC committee process and provide relevant
8 information with respect to the determination of eligibility;

9 3. a. If the commissioner determines that an assuming insurer no longer
10 meets one (1) or more of the requirements of paragraph (f) of this
11 subsection, the commissioner may revoke or suspend the
12 eligibility of the assuming insurer for recognition under paragraph
13 (f) of this subsection, in accordance with procedures set forth in
14 administrative regulation.

15 b. While an assuming insurer's eligibility is suspended, no
16 reinsurance agreement issued, amended, or renewed after the
17 effective date of the suspension qualifies for credit, except to the
18 extent that the assuming insurer's obligations under the contract
19 are secured in accordance with subsection (4) of this section.

20 c. If an assuming insurer's eligibility is revoked, no credit for
21 reinsurance may be granted after the effective date of the
22 revocation with respect to any reinsurance agreements entered into
23 by the assuming insurer, including reinsurance agreements entered
24 into prior to the date of revocation, except to the extent that the
25 assuming insurer's obligations under the contract are secured in a
26 form acceptable to the commissioner and consistent with the
27 provisions of subsection (4) of this section;

- 1 4. If subject to legal process of rehabilitation, liquidation, or conservation,
2 as applicable, the ceding insurer, or its representative, may seek and, if
3 determined appropriate by the court in which the proceedings are
4 pending, may obtain an order requiring that the assuming insurer post
5 security for all outstanding ceded liabilities;
- 6 5. a. Credit may be taken under paragraph (f) of this subsection for
7 reinsurance agreements entered into, amended, or renewed, on or
8 after July 15, 2020, and only with respect to losses incurred and
9 reserves reported after the later of:
- 10 i. The date on which the assuming insurer has met all
11 eligibility requirements pursuant to paragraph (f) of this
12 subsection; or
- 13 ii. The effective date of the new reinsurance agreement,
14 amendment, or renewal.
- 15 b. Nothing in this paragraph shall be construed to alter or impair a
16 ceding insurer's right to take credit for reinsurance, to the extent
17 that credit is not available under paragraph (f) of this subsection,
18 as long as the reinsurance qualifies for credit under any other
19 provision of this section; and
- 20 6. Nothing in this paragraph or paragraph (f) of this subsection shall be
21 construed to:
- 22 a. Limit or in any way alter the capacity of the parties to a
23 reinsurance agreement to:
- 24 i. Agree on requirements for security or other terms in the
25 reinsurance agreement, except as expressly prohibited by this
26 section or other applicable law; or
- 27 ii. Renegotiate the agreement; or

1 b. Authorize an assuming insurer to withdraw or reduce the security
2 provided under any reinsurance agreement, except as permitted by
3 the terms of the agreement.

4 (h) Credit shall be allowed when the reinsurance is ceded to an assuming insurer
5 not meeting the requirements of paragraph (a), (b), (c), (d), (e), or (f) of this
6 subsection, but only with respect to the insurance of risks located in
7 jurisdictions where such reinsurance is required by applicable law or
8 regulation of that jurisdiction or reinsurance ceded to a residual market
9 mechanism reinsurance association, or the members thereof, created pursuant
10 to law or which has been voluntarily created as such by its members with the
11 approval of the commissioner.

12 (i) If the assuming insurer is not authorized, certified, or accredited to transact
13 insurance or reinsurance in Kentucky, the credit permitted by paragraphs (c)
14 and (d) of this subsection shall not be allowed unless the assuming insurer
15 agrees in the reinsurance agreements:

16 1. That in the event of the failure of the assuming insurer to perform its
17 obligations under the terms of the reinsurance agreement, the assuming
18 insurer, at the request of the ceding insurer, shall submit to the
19 jurisdiction of any court of competent jurisdiction in any state of the
20 United States, shall comply with all requirements necessary to give the
21 court jurisdiction, and shall abide by the final decision of the court or of
22 any appellate court in the event of an appeal; and

23 2. To designate the Secretary of State or a designated attorney as its true
24 and lawful attorney upon whom may be served any lawful process in
25 any action, suit, or proceeding instituted by or on behalf of the ceding
26 insurer.

27 This paragraph is not intended to conflict with or override the obligation of

1 the parties to a reinsurance agreement to arbitrate their disputes, if this
2 obligation is created in the agreement.

3 (j) If the assuming insurer does not satisfy the requirements of paragraph (a), (b),
4 (c), or (f) of this subsection, the credit permitted by paragraph (d) or (e) of this
5 subsection shall not be allowed unless the assuming insurer agrees in the trust
6 agreements to the following conditions:

- 7 1. Notwithstanding any other provisions in the trust instrument, if the trust
8 is inadequate because it contains an amount less than the amount
9 required by paragraph (d)2. of this subsection, or if the grantor of the
10 trust has been declared insolvent or placed into receivership,
11 rehabilitation, liquidation, or similar proceedings under the laws of its
12 state or country of domicile, the trustee shall comply with an order of
13 the commissioner with regulatory oversight over the trust or with an
14 order of a court of competent jurisdiction directing the trustee to transfer
15 to the commissioner with regulatory oversight all of the assets of the
16 trust;
- 17 2. The assets shall be distributed by and claims shall be filed with and
18 valued by the commissioner with regulatory oversight in accordance
19 with the laws of the state in which the trust is domiciled that are
20 applicable to the liquidation of domestic insurance companies;
- 21 3. If the commissioner with regulatory oversight determines that the assets
22 of the trust fund or any part thereof are not necessary to satisfy the
23 claims of the United States ceding insurers of the grantor of the trust, the
24 assets or part thereof shall be returned by the commissioner with
25 regulatory oversight to the trustee for distribution in accordance with the
26 trust agreement; and
- 27 4. The grantor shall waive any right otherwise available to it under United

1 States law that is inconsistent with this paragraph.

2 (k) 1. If an accredited or certified reinsurer ceases to meet the requirements for
3 accreditation or certification, the commissioner may suspend or revoke
4 the reinsurer's accreditation or certification.

5 2. The commissioner shall provide the reinsurer notice and an opportunity
6 for hearing prior to the entry of a suspension or revocation order.

7 3. A suspension or revocation order shall not take effect until after a
8 hearing is conducted, unless:

9 a. The reinsurer waives its right to hearing;

10 b. The commissioner's order is based on regulatory action by the
11 reinsurer's domiciliary jurisdiction or the voluntary surrender or
12 termination of the reinsurer's eligibility to transact insurance or
13 reinsurance business in its domiciliary jurisdiction or in the
14 primary certifying state of the reinsurer under paragraph (e)7. of
15 this subsection; or

16 c. The commissioner finds that an emergency requires immediate
17 action and a court of competent jurisdiction has not stayed the
18 commissioner's action.

19 4. While a reinsurer's accreditation or certification is suspended, no
20 reinsurance contract issued or renewed after the effective date of the
21 suspension qualifies for credit except to the extent that the reinsurer's
22 obligations under the contract are secured in accordance with subsection
23 (4) of this section. If a reinsurer's accreditation or certification is
24 revoked, no credit for reinsurance may be granted after the effective date
25 of the revocation except to the extent that the reinsurer's obligations
26 under the contract are secured in accordance with paragraph (e)6. of this
27 subsection or subsection (4) of this section.

- 1 (l) 1. A ceding insurer shall manage its reinsurance recoverables proportionate
2 to its own book of business and diversify its reinsurance program.
- 3 2. a. A domestic ceding insurer shall notify the commissioner within
4 thirty (30) days after:
- 5 i. Reinsurance recoverables from any single assuming insurer,
6 or group of affiliated assuming insurers, exceeds fifty
7 percent (50%) of the domestic ceding insurer's last reported
8 surplus to policyholders; or
- 9 ii. It is determined that reinsurance recoverables from any
10 single assuming insurer, or group of affiliated assuming
11 insurers, is likely to exceed the limit set forth in subpart i. of
12 this subdivision.
- 13 b. A domestic ceding insurer shall notify the commissioner within
14 thirty (30) days after:
- 15 i. Ceding to any single assuming insurer, or group of affiliated
16 assuming insurers, more than twenty percent (20%) of the
17 ceding insurer's gross written premium in the prior calendar
18 year; or
- 19 ii. It has determined that the reinsurance ceded to any single
20 assuming insurer, or group of affiliated assuming insurers, is
21 likely to exceed the limit set forth in subpart i. of this
22 subdivision.
- 23 c. The notification required by this subparagraph shall demonstrate
24 that the exposure is safely managed by the domestic ceding
25 insurer.
- 26 (m) 1. In order to facilitate the prompt payment of claims, the commissioner
27 may permit a certified reinsurer to defer posting the security for

- 1 catastrophic recoverables for a period of up to one (1) year from the date
2 of the first instance of a liability reserve entry by the ceding insurer as a
3 result of a loss from a catastrophic occurrence.
- 4 2. Upon notice by the ceding insurer to the commissioner that the certified
5 reinsurer has failed to pay claims owed under a reinsurance agreement
6 in a timely manner, the commissioner shall notify the certified reinsurer
7 that it is no longer permitted to defer the posting of security for
8 catastrophic recoverables.
- 9 3. Reinsurance recoverables for only the following lines of business, as
10 reported on the NAIC's annual financial statement related specifically to
11 the catastrophic occurrence, shall be included in the deferral:
- 12 a. Fire;
13 b. Allied lines;
14 c. Farmowner's multiple peril;
15 d. Homeowner's multiple peril;
16 e. Commercial multiple peril;
17 f. Inland marine;
18 g. Earthquake; and
19 h. Auto physical damage.
- 20 4. The commissioner may promulgate administrative regulations to
21 establish the process for a certified reinsurer to seek a deferral of posting
22 of security for catastrophic recoverables.
- 23 (4) An asset or a reduction from liability for the reinsurance ceded by an insurer to an
24 assuming insurer not meeting the requirements of subsections (2) and (3) of this
25 section shall be allowed in an amount not exceeding the liabilities carried by the
26 ceding insurer and the reduction shall be in the amount of funds held by or on
27 behalf of the ceding insurer, including funds held in trust for the ceding insurer,

1 under a reinsurance contract with the assuming insurer as security for the payment
2 of obligations thereunder, if the security is held in the United States subject to
3 withdrawal solely 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 institution. This
5 security may be in the form of:

6 (a) Cash;

7 (b) Securities listed by the Securities Valuation Office of the NAIC and
8 qualifying as admitted assets, including those deemed exempt from filing, as
9 defined by the Purposes and Procedures Manual of the Securities Valuation
10 Office, and qualifying as admitted assets;

11 (c) Clean, irrevocable, unconditional letters of credit issued or confirmed by a
12 qualified United States financial institution no later than December 31 in
13 respect of the year for which filing is being made, and in the possession of the
14 ceding insurer on or before the filing date of its annual statement. Letters of
15 credit meeting applicable standards of issuer acceptability as of the dates of
16 their issuance, or confirmation, shall, notwithstanding the issuing, or
17 confirming, institution's subsequent failure to meet applicable standards of
18 issuer acceptability, continue to be acceptable as security until their
19 expiration, extension, renewal, modification, or amendment, whichever first
20 occurs; or

21 (d) Any other form of security acceptable to the commissioner.

22 (5) Cession of bulk reinsurance by a domestic insurer is subject to KRS 304.24-420.

23 (6) (a) Credit shall be allowed as an asset or as a deduction from liability, to any
24 ceding insurer for reinsurance ceded to an assuming insurer qualified therefor
25 under subsection (2), (3), (4), or (5) of this section, except that no such credit
26 shall be allowed unless the reinsurance contract provides, in substance, that in
27 the event of the insolvency of the ceding insurer, the reinsurance shall be

1 payable under a contract reinsured by the assuming insurer on the basis of
2 reported claims allowed by the liquidation court, without diminution because
3 of the insolvency of the ceding insurer. Such payments shall be made directly
4 to the ceding insurer or to its domiciliary liquidator except:

- 5 1. Where the contract or other written agreement specifically provides
6 another payee of such reinsurance in the event of the insolvency of the
7 ceding insurer; or
- 8 2. Where the assuming insurer, with the consent of the direct insured, has
9 assumed such policy obligations of the ceding insurer as direct
10 obligations of the assuming insurer to the payees under such policies
11 and in substitution for the obligations of the ceding insurer to such
12 payees.

13 (b) The reinsurance agreement may provide that the domiciliary liquidator of an
14 insolvent ceding insurer shall give written notice to the assuming insurer of
15 the pendency of a claim against such ceding insurer on the contract reinsured
16 within a reasonable time after such claim is filed in the liquidation
17 proceeding. During the pendency of such claim, any assuming insurer may
18 investigate such claim and interpose, at its own expense, in the proceeding
19 where such claim is to be adjudicated, any defenses which it deems available
20 to the ceding insurer or its liquidator. Such expense may be filed as a claim
21 against the insolvent ceding insurer to the extent of a proportionate share of
22 the benefit which may accrue to the ceding insurer solely as a result of the
23 defense undertaken by the assuming insurer. Where two (2) or more assuming
24 insurers are involved in the same claim and a majority in interest elect to
25 interpose a defense to such claim, the expense shall be apportioned in
26 accordance with the terms of the reinsurance agreement as though such
27 expense had been incurred by the ceding insurer.

- 1 (7) Upon request of the commissioner an insurer shall promptly inform the
2 commissioner in writing of the cancellation or any other material change of any of
3 its reinsurance treaties or arrangements.
- 4 (8) (a) The commissioner may promulgate administrative regulations to:
- 5 1. Implement the provisions of this section; and
 - 6 2. Regulate any of the following reinsurance arrangements:
 - 7 a. Life insurance policies with guaranteed nonlevel gross premium or
8 guaranteed nonlevel benefits;
 - 9 b. Universal life insurance policies with provisions resulting in the
10 ability of a policyholder to keep a policy in force over a secondary
11 guarantee period;
 - 12 c. Variable annuities with guaranteed death or living benefits;
 - 13 d. Long-term care insurance policies; or
 - 14 e. Such other life and health insurance and annuity products as to
15 which the NAIC adopts model regulatory requirements with
16 respect to credit for reinsurance.
- 17 (b) An administrative regulation adopted pursuant to paragraph (a)2.a. or b. of
18 this subsection may apply to any treaty containing policies issued:
- 19 1. On or after January 1, 2015; or
 - 20 2. Prior to January 1, 2015, if risk pertaining to these policies is ceded in
21 connection with the treaty in whole or in part, on or after January 1,
22 2015.
- 23 (c) An administrative regulation adopted pursuant to paragraph (a)2. of this
24 subsection:
- 25 1. May require the ceding insurer, in calculating the amounts or forms of
26 security required to be held by the insurer pursuant to this section, to use
27 the Valuation Manual adopted by the NAIC under Section 11B(1) of the

- 1 NAIC Standard Valuation Law, including all amendments adopted by
2 the NAIC and in effect on the date as of which the calculation is made,
3 to the extent applicable; and
- 4 2. Shall not apply to cessions to an assuming insurer that:
- 5 a. Meets the requirements set forth in subsection (3)(f) of this
6 section;
- 7 b. Is certified in this state; or
- 8 c. Maintains at least two hundred fifty million dollars (\$250,000,000)
9 in capital and surplus when determined in accordance with the
10 NAIC Accounting Practices and Procedures Manual, including all
11 amendments thereto adopted by the NAIC, excluding the impact
12 of any permitted or prescribed practices, and is:
- 13 i. Licensed in at least twenty-six (26) states; or
- 14 ii. Licensed in at least ten (10) states, and licensed or accredited
15 in a total of at least thirty-five (35) states.
- 16 (d) The authority to promulgate administrative regulations pursuant to paragraph
17 (a)2. of this subsection shall not limit the commissioner's general authority to
18 promulgate administrative regulations pursuant to paragraph (a)1. of this
19 subsection.
- 20 (9) Subsections (1) to (4) of this section shall apply to all cessions after July 14, 1992,
21 under reinsurance agreements which have had an inception, anniversary, or renewal
22 date not less than six (6) months after July 14, 1992.