

Regular Session, 2012

# ACT No. 419

HOUSE BILL NO. 849

BY REPRESENTATIVE TALBOT

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AN ACT

To amend and reenact R.S. 22:651 and 652(2) and (3)(a), relative to reinsurance credits; to clarify terms, duties, and obligations; to provide for new accreditation requirements; to provide relative to the assumption of insurers' duties and obligations; to provide relative to trust requirements; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:651 and 652(2) and (3)(a) are hereby amended and reenacted to read as follows:

§651. Reinsurance credits

A. ~~Credit~~ The commissioner shall allow credit for reinsurance ~~shall be allowed to~~ a domestic ceding insurer as either an asset or deduction from liability when the assuming insurer satisfies the requirements of Subsection B, C, D, ~~or E,~~ or F of this Section. ~~If the requirements of Subsection D are satisfied, the requirements of Subsection F of this Section shall also be satisfied~~ The commissioner shall allow credit under Subsection B or C of this Section pertaining only to cessions of those kinds or classes of business that the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile or, in the case of a United States branch of an alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance. The commissioner shall allow the credit for reinsurance pursuant to Subsection D of this Section only if the assuming insurer satisfies the requirements of Subsection G of this Section.

B. ~~Credit shall be allowed~~ The commissioner shall allow credit for reinsurance when the ~~reinsurance is ceded to an~~ assuming insurer ~~which~~ is authorized

1 in this state. An authorized insurer is one ~~that~~ which holds a certificate of authority  
 2 to transact insurance or reinsurance.

3 C. ~~Credit shall also be allowed~~ The commissioner shall allow credit for  
 4 reinsurance when the ~~reinsurance is ceded to an~~ assuming insurer ~~which~~ is accredited  
 5 by the commissioner as a reinsurer in this state. ~~An accredited reinsurer shall be~~  
 6 ~~approved by the Department of Insurance after filing an application for accreditation,~~  
 7 ~~and:~~ To be eligible for accreditation and to receive the commissioner's approval of  
 8 its application for accreditation, a reinsurer shall complete each of the following:

9 (1) ~~Filing~~ File with the ~~Department of Insurance~~ commissioner evidence of  
 10 its submission to the jurisdiction of this state, ~~and as may be set forth by the~~  
 11 ~~department in regulations.~~

12 (2) ~~Submission of the reinsurer~~ Submit to the authority of the commissioner  
 13 ~~Department of Insurance~~ to examine its books and records ~~of the reinsurer.~~

14 (3) ~~Demonstration by the reinsurer~~ Demonstrate that ~~the reinsurer~~ it is  
 15 licensed or authorized to transact insurance or reinsurance in, or in the case of a  
 16 United States branch of an alien assuming insurer, is entered through, at least one  
 17 state ~~which~~ that employs standards regarding credit for reinsurance equal to or  
 18 exceeding those applicable under this Subpart.

19 (4) ~~Annual filing~~ File annually with the commissioner ~~Department of~~  
 20 ~~Insurance~~ a true copy of its annual statement filed with the insurance ~~department~~  
 21 regulator of its state of domicile and a copy of its most recent audited financial  
 22 statement.

23 (5) Demonstrate to the satisfaction of the commissioner that it has adequate  
 24 financial capacity to meet its reinsurance obligations and is otherwise qualified to  
 25 assume reinsurance from domestic insurers. The commissioner shall deem that an  
 26 assuming insurer meets this requirement as of the time of its application if it  
 27 maintains a surplus as regards policyholders in an amount not less than twenty  
 28 million dollars and the commissioner has not denied it accreditation within ninety  
 29 days after submission of its application.

1                   D.(1)(a) ~~Credit shall also be allowed~~ The commissioner shall allow a  
 2                   domestic ceding insurer credit for reinsurance under Paragraph (2) of this Subsection  
 3                   when the reinsurance is ceded to an assuming insurer ~~which~~ that maintains a trust  
 4                   fund in a qualified United States financial institution, as defined in R.S. 22:653(B),  
 5                   for the payment of the valid claims of its United States policyholders and ceding  
 6                   insurers, their assigns, and successors in interest. The assuming insurer shall report  
 7                   and submit annually to the commissioner information substantially the same as that  
 8                   required to be reported on the National Association of Insurance Commissioners  
 9                   (NAIC) annual statement form by authorized insurers to enable the commissioner to  
 10                  determine the sufficiency of the trust fund. The assuming insurer shall submit to  
 11                  examination of its books and records by the commissioner and bear the expense of  
 12                  examination.

13                  ~~(b) Any credit for reinsurance shall not be granted under Paragraph (2) of~~  
 14                  ~~this Subsection unless the form of the trust and amendments to the trust have been~~  
 15                  ~~approved by the Department of Insurance. The trust instrument shall provide that~~  
 16                  ~~contested claims shall be valid and enforceable upon the final order of any court of~~  
 17                  ~~competent jurisdiction in the United States. The trust shall vest legal title to its~~  
 18                  ~~assets in the trustees of the trust for its United States ceding insurers, their assigns,~~  
 19                  ~~and successors in interest. The trust shall be subject to examination as determined~~  
 20                  ~~by the department. The trust described herein shall remain in existence for as long~~  
 21                  ~~as the assuming insurer shall have obligations due under the reinsurance agreements~~  
 22                  ~~subject to the trust.~~

23                  ~~(c) Not later than the twenty-eighth day of each February, the trustees of the~~  
 24                  ~~trust established under Paragraph (2) of this Subsection shall provide a written~~  
 25                  ~~report to the department setting forth the balance of the trust and listing the~~  
 26                  ~~investments of the trust of the preceding calendar year, and shall certify the date of~~  
 27                  ~~termination of the trust, if so planned, or shall certify that the trust shall not expire~~  
 28                  ~~prior to the succeeding December thirty-first.~~

1           (2)(a) The commissioner shall not grant credit for reinsurance under this  
2           Subsection unless the form of the trust and any amendments to the trust receive the  
3           approval of either of the following:

4                   (i) The commissioner of the state of domicile of the trust.

5                   (ii) The commissioner of another state who, pursuant to the terms of the trust  
6           instrument, accepts principal regulatory oversight of the trust.

7                   (b) The assuming insurer shall also file the form of the trust and any trust  
8           amendments with the commissioner of every domiciliary state of the ceding insurer  
9           beneficiaries of the trust. The trust instrument shall provide that contested claims  
10          shall be valid and enforceable upon the final order of any court of competent  
11          jurisdiction in the United States. The trust shall vest legal title to its assets in its  
12          trustees for the benefit of the assuming insurer's United States ceding insurers, their  
13          assigns, and successors in interest. The trust and the assuming insurer shall be  
14          subject to examination as determined by the commissioner.

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

22                  ~~(2)~~(3)(a) In the case of a single assuming insurer, the trust fund shall consist  
23          ~~of a trusteed account~~ funds in trust in an amount not less than the assuming insurer's  
24          liabilities attributable to business written in the United States and, in addition, the  
25          assuming insurer shall maintain a trusteed surplus of not less than twenty million  
26          dollars, except as provided in Subparagraph (b) of this Paragraph.

27                  (b) At any time after the assuming insurer has permanently discontinued  
28          underwriting new business secured by the trust for at least three full years, the  
29          commissioner with principal regulatory oversight of the trust may authorize a  
30          reduction in the required trusteed surplus, but only after a finding, based on an

1 assessment of the risk, that the new required surplus level is adequate for the  
2 protection of the United States ceding insurers, policyholders, and claimants in light  
3 of reasonably foreseeable adverse loss development. The risk assessment may  
4 involve an actuarial review, including an independent analysis of reserves and cash  
5 flow, and shall consider all material risk factors, including when applicable the lines  
6 of business involved, the stability of the incurred loss estimates, and the effect of the  
7 surplus requirements on the assuming insurer's liquidity or solvency. The minimum  
8 required trusteed surplus may not be reduced to an amount less than thirty percent  
9 of the assuming insurer's liabilities attributable to reinsurance ceded by United States  
10 ceding insurers covered by the trust.

11 ~~(b)~~ (c) In the case of a group of assuming insurers that includes incorporated  
12 and individual unincorporated underwriters, the following provisions apply; ~~the trust~~  
13 ~~shall consist of a trusteed account representing the group's liabilities attributable to~~  
14 ~~business written in the United States and, in addition, the group shall maintain a~~  
15 ~~trusteed surplus of which one hundred million dollars shall be held jointly for the~~  
16 ~~benefit of United States ceding insurers of any member of the group. The group~~  
17 ~~shall make available to the commissioner an annual certification of the solvency of~~  
18 ~~each underwriter by its domiciliary regulator and its independent public accountants.~~

19 (i) For reinsurance ceded under reinsurance agreements with an inception,  
20 amendment, or renewal date on or after January 1, 1993, the trust shall consist of a  
21 trusteed account in an amount not less than the respective underwriters' several  
22 liabilities attributable to business ceded by United States domiciled ceding insurers  
23 to any underwriter of the group.

24 (ii) For reinsurance ceded under reinsurance agreements with an inception  
25 date on or before December 31, 1992, and not amended or renewed after that date,  
26 notwithstanding the other provisions of this Subpart, the trust shall consist of a  
27 trusteed account in an amount not less than the respective underwriters' several  
28 insurance and reinsurance liabilities attributable to business written in the United  
29 States.

1           (iii) In addition to these trusts, the group shall maintain in trust a trusteed  
2           surplus of which one hundred million dollars shall be held jointly for the benefit of  
3           the United States domiciled ceding insurers or any member of the group for all years  
4           of account.

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

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

15          (⇌) (d) In the case of a group of incorporated underwriters ~~insurers~~ under  
16          common administration, the group shall:

17               (i) Submit to ~~this state's~~ the commissioner's authority to examine its books  
18               and records and bear the expense of ~~the~~ any examination.

19               (ii) Maintain aggregate policyholders' surplus of ten billion dollars.

20               (iii) Maintain a trust fund ~~consisting of a trusteed account~~ in an amount not  
21               less than the group's several liabilities attributable to business ceded by United States  
22               ceding insurers to any member of the group.

23               (iv) In addition, maintain a joint trusteed surplus of which one hundred  
24               million dollars shall be held jointly for the benefit of the United States ceding  
25               insurers of any member of the group as additional security for these liabilities.

26               (v) Within ninety days after its financial statements are due to be filed with  
27               the group's domiciliary regulator make available to the commissioner an annual  
28               certification of the member's solvency by the member's domiciliary regulator and  
29               financial statements of each underwriter member of the group audited by  
30               independent public accountants.

1           E. The commissioner shall allow credit for reinsurance when the assuming  
 2           insurer is certified by the commissioner as a reinsurer in this state and secures its  
 3           obligations in accordance with the requirements of this Subsection.

4           (1) To be eligible for certification, the assuming insurer shall meet the  
 5           following requirements:

6           (a) The assuming insurer shall be domiciled and licensed to transact  
 7           insurance or reinsurance in a qualified jurisdiction, as determined by the  
 8           commissioner pursuant to Paragraph (3) of this Subsection.

9           (b) The assuming insurer shall maintain minimum capital and surplus or its  
 10          equivalent, in an amount to be determined by the commissioner, pursuant to  
 11          regulation.

12          (c) The assuming insurer shall maintain financial strength ratings from two  
 13          or more rating agencies deemed acceptable by the commissioner pursuant to  
 14          regulation.

15          (d) The assuming insurer shall agree to submit to the jurisdiction of this  
 16          state, appoint the commissioner as its agent for service of process in this state, and  
 17          agree to provide security for one hundred percent of the assuming insurer's liabilities  
 18          attributable to reinsurance ceded by United States ceding insurers if it resists  
 19          enforcement of a final United States judgment.

20          (e) The assuming insurer shall agree to meet applicable information filing  
 21          requirements as determined by the commissioner for its initial application for  
 22          certification and for its continual maintenance of certification as a reinsurer.

23          (f) The assuming insurer shall satisfy any other requirements for certification  
 24          deemed relevant by the commissioner.

25          (2) An association including incorporated and individual unincorporated  
 26          underwriters may be a certified reinsurer. To be eligible for certification, in addition  
 27          to satisfying requirements of Paragraph (1) of this Subsection:

28          (a) The association shall satisfy its minimum capital and surplus  
 29          requirements through the capital and surplus equivalents and net of liabilities of the  
 30          association and its members, which shall include a joint central fund that may be

1           applied to any unsatisfied obligation of the association or any of its members, in an  
2           amount determined by the commissioner to provide adequate protection.

3           (b) The incorporated members of the association shall not engage in any  
4           business other than underwriting as a member of the association and shall be subject  
5           to the same level of regulation and solvency control to which the unincorporated  
6           members are subject, pursuant to the authority of the association's domiciliary  
7           regulator.

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

14           (3) The commissioner shall create and publish a list of qualified  
15           jurisdictions.

16           (a) To determine the eligibility of the domiciliary jurisdiction of a non-  
17           United States assuming insurer for recognition as a qualified jurisdiction, the  
18           commissioner shall evaluate the appropriateness and effectiveness of the reinsurance  
19           supervisory system of the jurisdiction, both initially and continually thereafter, and  
20           consider the rights, benefits, and the extent of reciprocal recognition afforded by the  
21           non-United States jurisdiction to reinsurers licensed and domiciled in the United  
22           States. A qualified jurisdiction shall agree to share information and cooperate with  
23           the commissioner with respect to all certified reinsurers domiciled within that  
24           jurisdiction. The commissioner may not recognize a jurisdiction as a qualified  
25           jurisdiction if the commissioner determines that it does not adequately and promptly  
26           enforce final United States judgments and arbitration awards. The commissioner  
27           may consider additional factors in determining qualified jurisdictions.

28           (b) The commissioner shall consider the list of qualified jurisdictions  
29           published by the NAIC through the NAIC committee process in determining  
30           qualified jurisdictions. If the commissioner approves a jurisdiction as qualified that



1 does not appear on the list of qualified jurisdictions, the commissioner shall provide  
2 thoroughly documented justification in accordance with criteria to be developed  
3 pursuant to regulations.

4 (c) The commissioner shall recognize as qualified jurisdictions those United  
5 States jurisdictions that meet the requirements for accreditation under the NAIC  
6 financial standards and accreditation program.

7 (d) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified  
8 jurisdiction, the commissioner has the discretion to suspend the reinsurer's  
9 certification indefinitely, in lieu of revocation.

10 (4) The commissioner shall publish a list of all certified reinsurers and their  
11 ratings assigned by the commissioner giving due consideration to the financial  
12 strength ratings assigned by rating agencies acceptable to the commissioner pursuant  
13 to regulation.

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

17 (a) For a domestic ceding insurer to qualify for full financial statement credit  
18 for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain  
19 security in a form acceptable to the commissioner and consistent with the provisions  
20 of R.S. 22:652, or in a multi-beneficiary trust in accordance with Subsection D of  
21 this Section, except as otherwise provided in this Subsection.

22 (b) If a certified reinsurer maintains a trust to fully secure its obligations  
23 subject to Subsection D of this Section, and chooses to secure its obligations incurred  
24 as a certified reinsurer in the form of a multi-beneficiary trust, the certified reinsurer  
25 shall maintain separate trust accounts for its obligations incurred under reinsurance  
26 agreements issued or renewed as a certified reinsurer with reduced security as  
27 permitted by this Subsection or comparable laws of other United States jurisdictions  
28 and for its obligations subject to this Subsection. It shall be a condition to the grant  
29 of certification pursuant to this Subsection that the certified reinsurer shall have  
30 bound itself, by the language of the trust and agreement with the commissioner with

1           principal regulatory oversight of each such trust account, to fund, upon termination  
2           of any such trust account, out of the remaining surplus of such trust any deficiency  
3           of any other such trust account.

4           (c) The minimum trusted surplus requirements provided in Subsection D  
5           of this Section are not applicable with respect to a multi-beneficiary trust maintained  
6           by a certified reinsurer for the purpose of securing obligations incurred pursuant to  
7           this Subsection, except that such trust shall maintain a minimum trusted surplus of  
8           ten million dollars.

9           (d) With respect to obligations incurred by a certified reinsurer pursuant to  
10           this Subsection, if the security is insufficient, the commissioner shall reduce the  
11           allowable credit by an amount proportionate to the deficiency, and has the discretion  
12           to impose further reductions in allowable credit upon finding that there is a material  
13           risk that the certified reinsurer's obligations will not be paid in full when due.

14           (e) For purposes of this Subsection, a certified reinsurer whose certification  
15           has been terminated for any reason shall be treated as a certified reinsurer required  
16           to secure one hundred percent of its obligations.

17           (i) As used in this Subsection, the term "terminated" refers to revocation,  
18           suspension, voluntary surrender, and inactive status.

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

22           (6) The commissioner may certify a reinsurer in this state based on the  
23           certification and assigned rating granted to that reinsurer by another NAIC accredited  
24           jurisdiction.

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

1           E. F. Any credit for reinsurance shall also be allowed when the reinsurance  
 2           is ceded to an assuming insurer not meeting the requirements of Subsection B, C, ~~or~~  
 3           D, or E of this Section, only as to the insurance of risks located in jurisdictions where  
 4           the reinsurance is required by applicable law of that jurisdiction.

5           F. G. If the assuming insurer is not authorized, ~~or accredited, or certified~~ to  
 6           transact insurance or reinsurance in this state, the commissioner shall not allow the  
 7           credit permitted by Subsection D ~~shall not be allowed~~ unless each of the following  
 8           criteria are met:

9           (1)(a) The assuming insurer provides the following in all reinsurance  
 10          agreements:

11          ~~(a)~~ (i) That in the event of the failure of the assuming insurer to perform its  
 12          obligations under the terms of the reinsurance agreement, the assuming insurer, at  
 13          the request of the ceding insurer, shall submit to the jurisdiction of any court of  
 14          competent jurisdiction in any state of the United States, comply with all requirements  
 15          necessary to give such court jurisdiction, and abide by the final decision of the  
 16          district court or appellate court.

17          ~~(b)~~ (ii) To designate the commissioner as its true and lawful attorney, who  
 18          may be served any lawful service of process in any action, suit, or proceeding  
 19          instituted by or on behalf of the ceding insurer.

20          ~~(c) The provisions of Subparagraphs (a) and (b) of this Paragraph~~ (b) The  
 21          provisions of Items (a)(i) and (ii) of this Paragraph shall not be construed to conflict  
 22          with or override the obligation of the parties to a reinsurance agreement to arbitrate  
 23          their disputes, if such an obligation is created in the reinsurance agreement.

24          (2) The assuming insurer files with the ~~department~~ commissioner a list  
 25          identifying its officers and directors, or similar principals, along with biographical  
 26          information for each and provides an annual update of this information.

27          (3) The assuming insurer agrees to allow the ~~department~~ commissioner to  
 28          examine its books and records and to waive any protection it has under any secrecy  
 29          laws of its domiciliary jurisdiction of the reinsurer, except that any examination shall

1           ~~only~~ take place only upon showing of good cause by the ~~department~~ commissioner  
 2           for concern about the financial soundness or solvency of the subject entity.

3                     ~~G. H.~~ The ceding insurer may take credit for the reserves on such ceded risks  
 4           to the extent reinsured, except that:

5                     (1) ~~No credit~~ The ceding insurer shall not be taken take credit for such  
 6           reserves unless the insurer accepting the reinsurance meets the requirements set forth  
 7           in this Section as valid assuming insurers.

8                     (2) ~~No credit~~ The commissioner shall be not allow credit ~~allowed~~ to any  
 9           ceding insurer for reinsurance, as an admitted asset or as a deduction from liability,  
 10          unless the reinsurance shall be payable, in the event of insolvency of the ceding  
 11          insurer, to its liquidator or receiver on the basis of the claim or claims allowed  
 12          against the insolvent ceding insurer by any court of competent jurisdiction or any  
 13          justice or judge thereof, or by any receiver or liquidator having authority to  
 14          determine and allow such claims, except either where the reinsurance contract with  
 15          the consent of the direct insured or insureds specifically provides another payee of  
 16          such reinsurance in the event of the insolvency of the ceding insurer, or when the  
 17          assuming insurer with the consent of the direct insured or insureds has assumed such  
 18          policy obligations of the ceding insurer as direct obligations of the assuming insurer  
 19          to the payees under such policies and in substitution for the obligations of the ceding  
 20          insurer to such payees.

21                    (3) ~~No~~ The commissioner shall not permit credit for reinsurance ~~shall be~~  
 22          ~~permitted~~ unless the assuming insurer has been doing business in its country of  
 23          domicile for at least three years, or is an affiliate of an insurer or reinsurer ~~which that~~  
 24          has been doing business in its country of domicile for at least three years, unless the  
 25          ~~department~~ commissioner, for good cause shown, waives this three-year operating  
 26          requirement by rule or regulation.

27                    I. If the assuming insurer does not meet the requirements of Subsection B or  
 28          C of this Section, the credit permitted by Subsection D or E of this Section shall not  
 29          be allowed unless the assuming insurer agrees in the trust agreements to each of the  
 30          following conditions:

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

9           (2) The commissioner with regulatory oversight, according to the laws  
 10          relative to the liquidation of domestic insurance companies of the state in which the  
 11          trust is domiciled, shall distribute the assets and shall value claims. Claims shall  
 12          also be directed to the commissioner with the regulatory oversight as provided in this  
 13          Paragraph.

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

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

21          J. If an accredited or certified reinsurer ceases to meet the requirements for  
 22          accreditation or certification, the commissioner may suspend or revoke the  
 23          reinsurer's accreditation or certification.

24          (1) The commissioner shall give the reinsurer notice and opportunity for a  
 25          hearing. The suspension or revocation may not take effect until after the  
 26          commissioner's order upon a hearing unless one of the following circumstances are  
 27          present:

28                 (a) The reinsurer waives its right to a hearing.

29                 (b) The commissioner's order is based upon regulatory action by the  
 30                 reinsurer's domiciliary jurisdiction or upon the voluntary surrender or termination of

1           the reinsurer's eligibility to transact insurance or reinsurance business in its  
2           domiciliary jurisdiction or in the primary certifying state of the reinsurer under  
3           Paragraph (E)(6) of this Section.

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

6           (2) While a reinsurer's accreditation or certification is suspended, no  
7           reinsurance contract issued or renewed after the effective date of the suspension  
8           qualifies for credit except to the extent that the reinsurer's obligations under the  
9           contract are secured in accordance with R.S. 22:652. If a reinsurer's accreditation  
10          or certification is revoked, no credit for reinsurance may be granted after the  
11          effective date of the revocation, except to the extent that the reinsurer's obligations  
12          under the contract are secured in accordance with the provisions of Paragraph (E)(5)  
13          of this Section or in accordance with R.S. 22:652.

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

22          (2) A ceding insurer shall take steps to diversify its reinsurance program. A  
23          domestic ceding insurer shall notify the commissioner within thirty days after ceding  
24          to any single assuming insurer, or group of affiliated assuming insurers, more than  
25          twenty percent of the ceding insurer's gross written premium in the prior calendar  
26          year, or after it has determined that the reinsurance ceded to any single assuming  
27          insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The  
28          notification shall demonstrate that the exposure is safely managed by the domestic  
29          ceding insurer.

1 §652. Reduction from liability for ceded reinsurance

2 A reduction from liability for the reinsurance ceded by a domestic insurer to  
3 an assuming insurer that fails to satisfy the requirements of R.S. 22:651 shall be  
4 allowed in an amount not exceeding the liabilities carried by the ceding insurer, and  
5 such a reduction shall be in the amount of funds held by or on behalf of the ceding  
6 insurer, including funds held in trust in this state for the ceding insurer, under a  
7 reinsurance contract with such assuming insurer as security for the payment of  
8 obligations thereunder, if such security is held in this state subject to withdrawal  
9 solely by, and under the exclusive control of, the ceding insurer, or, in the case of a  
10 trust, held in a qualified United States financial institution, as defined in R.S.  
11 22:653(B). The security may be in the form of:

12 \* \* \*

13 (2) Securities listed by the Securities Valuation Office of the National  
14 Association of Insurance Commissioners (NAIC), including those deemed exempt  
15 from filing as defined by the Purposes and Procedures Manual of the NAIC  
16 Securities Valuation Office, and qualifying as admitted assets.

17 (3)(a) Clean, irrevocable, unconditional letters of credit, issued or confirmed  
18 by a qualified United States financial institution, as defined in R.S. 22:653(A),  
19 effective no later than December thirty-first in respect of the year for which filing is  
20 being made, and in possession of or in trust for the ceding ~~company~~ insurer on or  
21 before the filing date of its annual statement.

22 \* \* \*

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_