

Regular Session, 2012

ACT No. 419

HOUSE BILL NO. 849

BY REPRESENTATIVE TALBOT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

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 ~~(c)~~ (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.~~ 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: _____