

# An Act

ENROLLED SENATE  
BILL NO. 122

By: Montgomery of the Senate

and

Sims of the House

An Act relating to reinsurance; amending 36 O.S. 2011, Sections 5122 and 5124, as amended by Sections 1 and 4, Chapter 298, O.S.L. 2016 (36 O.S. Supp. 2020, Sections 5122 and 5124), which relate to requirements for allowance of credit and rules and regulations; conforming language; authorizing credit for reinsurance when reinsurance is ceded to certain assuming insurers; establishing requirements of assuming insurers; providing definitions; requiring assuming insurer to have and maintain certain financial assets; requiring assuming insurer to provide certain notification; requiring assuming insurer to submit to certain jurisdiction and to pay all final judgments; requiring reinsurance agreements to contain certain security provision; requiring assuming insurer to agree to certain terms; requiring assuming insurer to provide any document requested by Insurance Commissioner; requiring the assuming insurer to make certain payments; requiring certain entity to confirm certain information reported to reciprocal jurisdiction; construing clause; requiring Commissioner to create and publish list of reciprocal jurisdiction; establishing terms of list of reciprocal jurisdiction; requiring Commissioner to create and publish list of certain assuming insurers; establishing terms of revoking eligibility from list; limiting credit for reinsurance available under this act; authorizing ceding insurer to obtain certain legal order; stating application of act; updating references; adding exception to regulation for certain insurers; and providing an effective date.

SUBJECT: Reinsurance

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

SECTION 1. AMENDATORY 36 O.S. 2011, Section 5122, as amended by Section 1, Chapter 298, O.S.L. 2016 (36 O.S. Supp. 2020, Section 5122), is amended to read as follows:

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

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

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

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

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

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

4. Files annually with the Insurance Commissioner a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement; and

5. Demonstrates to the satisfaction of the Insurance Commissioner that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. An assuming insurer is deemed to meet this requirement as of the time of its application if it maintains a surplus as regards policyholders in an amount not less than Twenty Million Dollars (\$20,000,000.00) and its accreditation has not been denied by the Insurance Commissioner within ninety (90) days after submission of its application.

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

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

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

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

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

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

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

3. The form of the trust and any trust amendments also shall be filed with the Insurance Commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in its trustees for the benefit of the assuming insurer's United States ceding insurers, their assigns and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the Insurance Commissioner.

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

5. No later than February 28 of each year the trustee of the trust shall report to the Insurance Commissioner in writing the balance of the trust and listing the trust's investments at the

preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the following December 31.

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

- a. the trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers, and, in addition, the assuming insurer shall maintain a trusteed surplus of not less than Twenty Million Dollars (\$20,000,000.00), except as provided in subparagraph b of this paragraph,
- b. at any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three (3) full years, the Commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trusteed surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including when applicable the lines of business involved, the stability of the incurred loss estimates and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trusteed surplus shall not be reduced to an amount less than thirty percent (30%) of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust,
- c. (1) in the case of a group including incorporated and individual unincorporated underwriters:

- (a) for reinsurance ceded under reinsurance agreements with an inception, amendment or renewal date on or after January 1, 1993, the trust shall consist of a trustee account in an amount not less than the respective underwriters' several liabilities attributable to business ceded by United States-domiciled ceding insurers to any underwriter of the group,
  - (b) for reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed after that date, notwithstanding the other provisions of ~~this act~~ the Credit for Reinsurance Act, the trust shall consist of a trustee account in an amount not less than the respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States, and
  - (c) in addition to these trusts, the group shall maintain in trust a trustee surplus of which One Hundred Million Dollars (\$100,000,000.00) shall be held jointly for the benefit of the United States-domiciled ceding insurers of any member of the group for all years of account,
- (2) the incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members, and
  - (3) within ninety (90) days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the Commissioner an annual certification by the group's domiciliary regulator of the solvency of

each underwriter member; or if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the group, and

- d. in the case of a group of incorporated underwriters under common administration, the group shall:
- (1) have continuously transacted an insurance business outside the United States for at least three (3) years immediately prior to making application for accreditation,
  - (2) maintain aggregate policyholders' surplus of at least Ten Billion Dollars (\$10,000,000,000.00),
  - (3) maintain a trust fund in an amount not less than the group's several liabilities attributable to business ceded by United States-domiciled ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of the group,
  - (4) in addition, maintain a joint trustee surplus of which One Hundred Million Dollars (\$100,000,000.00) shall be held jointly for the benefit of United States-domiciled ceding insurers of any member of the group as additional security for these liabilities, and
  - (5) within ninety (90) days after its financial statements are due to be filed with the group's domiciliary regulator, make available to the Commissioner an annual certification of each underwriter member's solvency by the member's domiciliary regulator and financial statements of each underwriter member of the group prepared by its independent public accountant.

F. Credit shall be allowed when the reinsurance is ceded to an assuming insurer that has been certified by the Commissioner as a

reinsurer in this state and secures its obligations in accordance with the requirements of this subsection.

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

- a. the assuming insurer shall be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the Commissioner pursuant to paragraph 3 of this subsection,
- b. the assuming insurer shall maintain minimum capital and surplus, or its equivalent, in an amount to be determined by the Commissioner pursuant to regulation,
- c. the assuming insurer shall maintain financial strength ratings from two or more rating agencies deemed acceptable by the Commissioner pursuant to regulation,
- d. the assuming insurer shall agree to submit to the jurisdiction of this state, appoint the Commissioner as its agent for service of process in this state and agree to provide security for one hundred percent (100%) of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if it resists enforcement of a final United States judgment,
- e. the assuming insurer shall agree to meet applicable information filing requirements as determined by the Commissioner, both with respect to an initial application for certification and on an ongoing basis, and
- f. the assuming insurer shall satisfy any other requirements for certification deemed relevant by the Commissioner.

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



- a. the association shall satisfy its minimum capital and surplus requirements through the capital and surplus equivalents (net of liabilities) of the association and its members, which shall include a joint central fund that may be applied to any unsatisfied obligation of the association or any of its members, in an amount determined by the Commissioner to provide adequate protection,
- b. the incorporated members of the association shall not be engaged in any business other than underwriting as a member of the association and shall be subject to the same level of regulation and solvency control by the association's domiciliary regulator as are the unincorporated members, and
- c. within ninety (90) days after its financial statements are due to be filed with the association's domiciliary regulator, the association shall provide to the Commissioner an annual certification by the association's domiciliary regulator of the solvency of each underwriter member; or if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the association.

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

- a. In order to determine whether the domiciliary jurisdiction of a non-United-States assuming insurer is eligible to be recognized as a qualified jurisdiction, the Commissioner shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits and the extent of reciprocal recognition afforded by the non-United-States jurisdiction to reinsurers licensed and domiciled in the United

States. A qualified jurisdiction shall agree to share information and cooperate with the Commissioner with respect to all certified reinsurers domiciled within that jurisdiction. A jurisdiction shall not be recognized as a qualified jurisdiction if the Commissioner has determined that the jurisdiction does not adequately and promptly enforce final United States judgments and arbitration awards. Additional factors may be considered in the discretion of the Commissioner.

- b. A list of qualified jurisdictions shall be published through the NAIC National Association of Insurance Commissioners (NAIC) Committee Process. The Commissioner shall consider this list in determining qualified jurisdictions. If the Commissioner approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the Commissioner shall provide thoroughly documented justification in accordance with criteria to be developed under regulations.
- c. United States jurisdictions that meet the requirement for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions.
- d. If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the Commissioner may at his or her discretion suspend the reinsurer's certification indefinitely, in lieu of revocation.

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

5. A certified reinsurer shall secure obligations assumed from United States ceding insurers under this subsection at a level

consistent with its rating, as specified in regulations promulgated by the Commissioner.

- a. In order for a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security in a form acceptable to the Commissioner and consistent with the provisions of Section 5123 of this title, or in a multibeneficiary trust in accordance with subsection E of this section, except as otherwise provided in this subsection.
- b. If a certified reinsurer maintains a trust to fully secure its obligations subject to subsection E of this section, and chooses to secure its obligations incurred as a certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer shall maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this subsection or comparable laws of other United States jurisdictions and for its obligations subject to subsection E of this section. It shall be a condition to the grant of certification under this subsection that the certified reinsurer shall have bound itself, by the language of the trust and agreement with the Commissioner with principal regulatory oversight of each such trust account, to fund, upon termination of any such trust account, out of the remaining surplus of such trust any deficiency of any other such trust account.
- c. The minimum trusted surplus requirements provided in subsection E of this section are not applicable with respect to a multibeneficiary trust maintained by a certified reinsurer for the purpose of securing obligations incurred under this subsection, except that such trust shall maintain a minimum trusted surplus of Ten Million Dollars (\$10,000,000.00).
- d. With respect to obligations incurred by a certified reinsurer under this subsection, if the security is

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

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

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

8. For purposes of this subsection:

- a. a certified reinsurer whose certification has been terminated for any reason shall be treated as a certified reinsurer required to secure one hundred percent (100%) of its obligations, and
- b. the term "terminated" refers to revocation, suspension, voluntary surrender and inactive status. If the Commissioner continues to assign a higher rating as permitted by this section, the requirement to secure one hundred percent (100%) of its obligations shall not apply to a certified reinsurer in inactive status or to a reinsurer whose certification has been suspended.

G. 1. Credit shall be allowed when the reinsurance is ceded to an assuming insurer meeting all of the following conditions:

a. the assuming insurer shall have its head office or be domiciled, as applicable, and licensed in a reciprocal jurisdiction. For purposes of this subparagraph, "reciprocal jurisdiction" is a jurisdiction that is one of the following:

(1) a non-United States jurisdiction that is subject to an in-force, covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and the European Union, is a member state of the European Union. For purposes of this subparagraph, a "covered agreement" is an agreement entered into pursuant to Dodd-Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C. Sections 313 and 314, that is currently in effect or in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this state or for allowing the ceding insurer to recognize credit for reinsurance,

(2) a United States jurisdiction that meets the requirements for accreditation under the National Association of Insurance Commissioners financial standards and accreditation program, or

(3) a qualified jurisdiction, as determined by the Commissioner pursuant to subparagraph a of paragraph 3 of subsection F of this section, that is not otherwise described in division 1 or 2 of subparagraph a of paragraph 1 of this subsection and meets additional requirements consistent with the terms and conditions of in-force, covered agreements, as specified by the Commissioner in rules,

b. the assuming insurer shall have and maintain, on an ongoing basis, minimum capital and surplus, or its

equivalent, calculated according to the methodology of its domiciliary jurisdiction, in an amount to be set forth in Insurance Department rules. If the assuming insurer is an association including incorporated and individual unincorporated underwriters, it shall have and maintain, on an ongoing basis, minimum capital and surplus equivalents (net of liabilities), calculated according to the methodology applicable in its domiciliary jurisdiction, and a central fund containing a balance in amounts to be set forth in Department rules,

c. the assuming insurer shall have and maintain, on an ongoing basis, a minimum solvency or capital ratio, as applicable, which will be set forth in Department rules. If the assuming insurer is an association including incorporated and individual unincorporated underwriters, it shall have and maintain, on an ongoing basis, a minimum solvency or capital ratio in the reciprocal jurisdiction where the assuming insurer has its head office or is domiciled and is also licensed,

d. the assuming insurer shall agree and provide adequate assurance to the Insurance Commissioner, in a form specified by the Commissioner, as follows:

(1) the assuming insurer shall provide prompt written notice and explanation to the Commissioner if it falls below the minimum requirements set forth in subparagraph b or c of this paragraph, or if any regulatory action is taken against it for serious noncompliance with applicable law,

(2) the assuming insurer shall consent in writing to the jurisdiction of the courts of this state and to the appointment of the Commissioner as agent for service of process. The Commissioner may require that consent for service of process be provided to the Commissioner and included in each reinsurance agreement. Nothing in this provision shall be construed to limit, or in any way alter,

the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws,

- (3) the assuming insurer shall consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer or its legal successor, that have been declared enforceable in the jurisdiction where the judgment was obtained,
  - (4) each reinsurance agreement shall include a provision requiring the assuming insurer to provide security in an amount equal to one hundred percent (100%) of the liabilities of the assuming insurer attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by its legal successor on behalf of its resolution estate, and
  - (5) the assuming insurer shall confirm that it is not presently participating in any solvent scheme of arrangement that involves the ceding insurers of this state, and agree to notify the ceding insurer and the Commissioner and to provide security in an amount equal to one hundred percent (100%) of the liabilities of the assuming insurer to the ceding insurer, should the assuming insurer enter into such a solvent scheme of arrangement. The security shall be in a form consistent with the provisions of subsection H of Section 5122 and Section 5123 of this title, specified by the Commissioner in rule,
- e. the assuming insurer or its legal successor shall provide, on behalf of itself and any legal

predecessors, any additional documentation requested by the Commissioner in regulation,

- f. the assuming insurer shall maintain a practice of prompt payment of claims under reinsurance agreements, pursuant to criteria set forth in rule,
- g. the supervisory authority of the assuming insurer shall confirm to the Commissioner on an annual basis, as of the preceding December 31 or at the annual date otherwise statutorily reported to the reciprocal jurisdiction, that the assuming insurer complies with the requirements set forth in subparagraphs b and c of this paragraph, and
- h. nothing in this provision shall be construed to preclude an assuming insurer from providing the Commissioner with information on a voluntary basis.

2. The Commissioner shall timely create and publish a list of reciprocal jurisdictions.

- a. A list of reciprocal jurisdictions is published through the National Association of Insurance Commissioners Committee Process. The list shall include any reciprocal jurisdiction as defined under subparagraph a of paragraph 1 of this subsection and shall consider any other reciprocal jurisdiction included on the National Association of Insurance Commissioners list. The Commissioner may approve a jurisdiction that does not appear on the list of reciprocal jurisdictions in accordance with criteria to be developed through rules issued by the Commissioner.
- b. The Commissioner may remove a jurisdiction from the list of reciprocal jurisdictions upon a determination that the jurisdiction no longer meets the requirements of a reciprocal jurisdiction, in accordance with a process set forth in rules issued by the Commissioner, except that the Commissioner shall not remove from the list a reciprocal jurisdiction as defined under



subparagraph a of paragraph 1 of this subsection. Upon removal of a reciprocal jurisdiction from this list, credit for reinsurance ceded to an assuming insurer that has its home office or is domiciled in that jurisdiction shall be allowed, if otherwise allowed pursuant to this act.

3. The Commissioner shall timely create and publish a list of assuming insurers that have satisfied the conditions set forth in this subsection and to which cessions shall be granted credit in accordance with this subsection. The Commissioner may add an assuming insurer to such list if a National Association of Insurance Commissioners accredited jurisdiction has added the assuming insurer to a list of such assuming insurers or if, upon initial eligibility, the assuming insurer submits the information to the Commissioner as required under subparagraph d of paragraph 1 of this subsection and complies with any additional requirements that the Commissioner may impose by regulation, except to the extent that they conflict with an applicable covered agreement.

4. If the Commissioner determines that an assuming insurer no longer meets one or more of the requirements under this subsection, the Commissioner may revoke or suspend the eligibility of the assuming insurer for recognition under this subsection in accordance with procedures set forth in Department rules.

- a. While the eligibility of an assuming insurer is suspended, no reinsurance agreement issued, amended or renewed after the effective date of the suspension qualifies for credit except to the extent that the obligations of the assuming insurer under the contract are secured in accordance with the provisions of Section 5123 of this title.
- b. If the eligibility of an assuming insurer is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer including reinsurance agreements entered into prior to the date of revocation, except to the extent that the obligations of the assuming insurer under the

contract are secured in a form acceptable to the Commissioner.

5. If subject to a legal process of rehabilitation, liquidation or conservation, as applicable, the ceding insurer or its representative may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring that the assuming insurer post security for all outstanding ceded liabilities.

6. Nothing in this subsection shall be construed to limit or in any way alter the capacity of parties to a reinsurance agreement to agree on requirements for security or other terms in that reinsurance agreement, except as expressly prohibited by this act or other applicable law or rule.

7. Credit may be taken under this subsection only for reinsurance agreements entered into, amended or renewed on or after the effective date of this act, and only with respect to losses incurred and reserves reported on or after the later of (1) the date on which the assuming insurer has met all eligibility requirements pursuant to paragraph 1 of this subsection, and (2) the effective date of the new reinsurance agreement, amendment or renewal.

- a. This paragraph does not alter or impair the right of a ceding insurer to take credit for reinsurance, to the extent that credit is not available under this subsection, as long as the reinsurance qualifies for credit under any other applicable provision of this act.
- b. Nothing in this subsection shall be construed to authorize an assuming insurer to withdraw or reduce the security provided under any reinsurance agreement, except as permitted by the terms of the agreement.
- c. Nothing in this subsection shall be construed to limit, or in any way alter, the capacity of parties to any reinsurance agreement to renegotiate the agreement.

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

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

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

2. To designate the Insurance Commissioner or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the ceding insurer. This subsection is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if this obligation is created in the agreement.

~~H.~~ J. If the assuming insurer does not meet the requirements of subsection B, C or D of this section, the credit permitted by subsection E or F of this section shall not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

1. Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by paragraph 6 of subsection E of this section, or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the Commissioner

with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the Commissioner with regulatory oversight all of the assets of the trust fund;

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

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

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

~~J.~~ K. If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification, the Commissioner may suspend or revoke the reinsurer's accreditation or certification.

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

- a. the reinsurer waives its right to hearing,
- b. the Commissioner's order is based on regulatory action by the reinsurer's domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state of the reinsurer under paragraph 6 of subsection F of this section, or

- c. the Commissioner finds that an emergency requires immediate action and a court of competent jurisdiction has not stayed the Commissioner's action;

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

~~K.~~ L. Concentration Risk.

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

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

SECTION 2. AMENDATORY 36 O.S. 2011, Section 5124, as amended by Section 4, Chapter 298, O.S.L. 2016 (36 O.S. Supp. 2020, Section 5124), is amended to read as follows:

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

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

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

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

2. A regulation adopted pursuant to this subsection which is applicable to policies listed in subparagraph a or b of paragraph 1 of this subsection may apply to any treaty containing:

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

Practices and Procedures Manual in effect as of December 31, 2015, excluded such pre-2015 policies from the requirements concerning the amounts and forms of security supporting reinsurance arrangements that would otherwise be applicable to such policies.

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

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

a. meets the conditions set forth in this section,

b. is certified in this state, or

~~b.~~

c. maintains at least Two Hundred Fifty Million Dollars (\$250,000,000.00) in capital and surplus when determined in accordance with the NAIC Accounting Practices and Procedures Manual, including all amendments thereto adopted by the NAIC, excluding the impact of any permitted or prescribed practices~~+~~, and is:

(1) licensed in at least twenty-six states, or

(2) licensed in at least ten states, and licensed or accredited in a total of at least thirty-five states.

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

SECTION 3. This act shall become effective November 1, 2021.

Passed the Senate the 2nd day of March, 2021.

\_\_\_\_\_  
Presiding Officer of the Senate

Passed the House of Representatives the 12th day of April, 2021.

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_