

Final Proposed Filing - Coversheet

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the "Rule on Rulemaking" adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms shall be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of "Proposed Rule Postings" online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

PLEASE REMOVE ANY COVERSHEET OR FORM NOT REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

Term and Universal Life Insurance Reserve Financing (Reg. 22-017-I)

S/ Kevin Gaffney _____, on 8/11/2022
(signature) (date)

Printed Name and Title:

Kevin Gaffney

Commissioner, Department of Financial Regulation

RECEIVED BY: _____

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)
- ICAR Minutes
- Copy of Comments
- Responsiveness Summary

1. TITLE OF RULE FILING:

**Term and Universal Life Insurance Reserve Financing
(Reg. 22-017-I)**

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

22P012

3. ADOPTING AGENCY:

Department of Financial Regulation

4. PRIMARY CONTACT PERSON:

(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Dan Raddock, Assistant General Counsel

Agency: Department of Financial Regulation

Mailing Address: 89 Main Street, Third Floor, Montpelier,
VT 05620

Telephone: 8023718980 Fax:

E-Mail: Dan.Raddock@Vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<https://dfr.vermont.gov/about-us/legal-general-counsel/proposed-rules-and-public-comment>

5. SECONDARY CONTACT PERSON:

(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

Name: Hillary Borcharding, Assistant General Counsel

Agency: Department of Financial Regulation

Mailing Address: 89 Main Street, Third Floor, Montpelier,
VT 05620

Telephone: (802) 249-6512 Fax:

E-Mail: Hillary.Borcharding@Vermont.gov

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:

(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND COPYING?) No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

7. LEGAL AUTHORITY / ENABLING LEGISLATION:

(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

Act 139 of 2022, Section 23 (codified as 8 V.S.A. § 3634a(e)); 8 V.S.A. § 15(a)

8. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

Pursuant to 8 V.S.A. § 15, the Commissioner may adopt rules necessary to the administration of Title 8. The Commissioner is further empowered by 8 V.S.A. § 3634a(e) (Act 139 of 2022) to adopt rules implementing the provisions of the credit for insurance law in Vermont.

9. THE FILING HAS CHANGED SINCE THE FILING OF THE PROPOSED RULE.

10. THE AGENCY HAS INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.

11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE NOT RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.

12. THE AGENCY HAS NOT INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.

13. THE AGENCY HAS INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.

14. CONCISE SUMMARY (150 WORDS OR LESS):

The Department is proposing a new rule that establishes uniform standards governing reserve financing arrangements pertaining to insurers issuing term and universal life insurance products with secondary guarantees. The new rule formalizes existing Department practices and is based on the National Association of Insurance Commissioners (NAIC) Model Rule 787.

15. EXPLANATION OF WHY THE RULE IS NECESSARY:

The NAIC requires adoption of this proposed rule by September 1, 2022. (The NAIC is the U.S. insurance standard-setting organization created and governed by the chief insurance regulators from the states, the District of Columbia and the five territories.)

Adoption of the rule is a requirement for accreditation. The model rule was created in response to life insurers use of captive insurance companies and other arrangements to reduce excessive statutory reserve requirements. The NAIC and its members were concerned that inconsistencies among the various states in how to regulate these transactions may create opportunities for regulatory arbitrage. The new rule creates an equal playing field for insurers in every state and makes certain that there are assets available to pay policyholder claims. In Vermont, this new rule does not substantively change the current process for reviewing reserve financing transactions, but instead codifies existing practices and procedures.

16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

The proposed rule provides clear guidelines on when reinsurance ceded to captive insurers, special purposes vehicles, reinsurers that are not eligible to become certified reinsurers, or insurers that materially deviate from the statutory accounting rules may receive credit for reinsurance. The term "cede" or "ceded" is a term of art used in the insurance context when an insurance company (the "ceding company") transfers a risk or risks in a policy to another company (the reinsurer). Adoption of this rule is required for Vermont to remain accredited by the NAIC.

17. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

The Department of Financial Regulation; insurers issuing term and universal life insurance products that engage in reserve financing arrangements; the captive insurance industry; large banks and reinsurers who provide secondary guarantees for such transactions. The proposed rule exclusively regulates financial transactions utilized by large insurers and does not impact consumer policies. The rule implements guidelines already in effect in Vermont. It will not affect the price of insurance because the relevant financing transactions take place at the insurer level and do not impact the contract between consumers and the insurer. In states that were not already utilizing similar guidelines, implementation of this rule could

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

8/5/2022

KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

Credit for reinsurance

Life insurance

Life insurer

Actuarial Guideline 48

Captive insurance

Captive insurer

Reserve financing



State of Vermont
Department of Financial Regulation
89 Main Street
Montpelier, VT 05620-3101

For consumer assistance:
[Banking] 888-568-4547
[Insurance] 800-964-1784
[Securities] 877-550-3907
www.dfr.vermont.gov

August 6, 2022

Office of the Secretary of State
128 State Street
Montpelier, VT 056933

Re: Term and Universal Life Insurance Reserve Financing (Reg. 22-017-I)

To whom it may concern,

On July 11, 2022, the Department of Financial Regulation (the Department) met with the Interagency Committee on Administrative Rules (ICAR) to discuss proposed rule 22-017-I (Term and Universal Life Insurance Reserve Financing). At that meeting, ICAR asked the Department to make the following changes to the Administrative Procedure Forms accompanying the proposed rule:

1. Proposed Filing Coversheet, #10: Remove the authority reference. Define 'ceded' as it pertains to the context of the proposed rule in #8, Concise Summary for clarity to the public.
2. Economic Impact Analysis, #6 and #7: Remove the first sentence in #6. Include language that there is a high threshold to be in the field.

The changes requested by ICAR are reflected in the Final Proposed Filing Forms submitted with this letter. No other changes have been made since the proposed rule was first filed. The rule itself has not changed since filing the proposed rule.

Sincerely,

Dan Raddock
Assistant General Counsel

Enclosures

Adopting Page

Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

=====

1. TITLE OF RULE FILING:

**Term and Universal Life Insurance Reserve Financing
(Reg. 22-017-I)**

2. ADOPTING AGENCY:

Department of Financial Regulation

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment if the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **A NEW RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

None .



INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

Meeting Date/Location: July 11, 2022, virtually via Microsoft Teams
Members Present: Chair Douglas Farnham, Diane Bothfeld, Jared Adler, John Kessler, Diane Sherman, Michael Obuchowski and Donna Russo-Savage
Members Absent: Brendan Atwood and Jennifer Mojo
Minutes By: Melissa Mazza-Paquette

- 2:01 p.m. meeting called to order.
- Review and approval of minutes from the June 13, 2022 meeting.
- No additions/deletions to agenda. Agenda approved as drafted.
- Jay Greene, Racial Equity Policy and Research Analyst from the State of Vermont Office of Racial Equity, introduced themselves to familiarize themselves on adapting their equity impact assessment tool for the needs of the ICAR.
- No public comments made.
- Note: The 'PUC Emergency Rule 2.600 COVID-19 Emergency Disconnection Rule', provided by the Public Utility Commission was supported by ICAR Chair Farnham on July 6, 2022.
 - On July 15, 2021, the moratorium on gas, electric, and basic telephone disconnections was lifted in order to encourage greater participation in the Vermont COVID-19 Arrearage Assistance Program II ("VCAAP II") and the Vermont Emergency Rental and Utility Assistance Program ("VERAP") that distribute federal funds. On June 15, 2021, the statutory moratorium on water disconnections was lifted. The VCAAP II stopped taking applications in October 2021, but the VERAP continues to take applications. The Vermont Homeowner Assistance Program ("VHAP") also continues to take applications and includes utility assistance. This rule encourages continued participation in the arrearage and financial support programs available to utility customers and provides enhanced consumer protections to customers who may be experiencing financial hardship due to COVID-19. Based on the funding sources and anticipated termination of the assistance programs, this likely will be the last renewal of this emergency rule.
- Presentation of Proposed Rules on pages 3-5 to follow:
 - 1) Term and Universal Life Insurance Reserve Financing (Reg. 22-017-I), Department of Financial Regulation, page 2
 - 2) Amendments to the Vermont Air Pollution Control Regulations - Wood Heater rules, Agency of Natural Resources, page 3
 - 3) Vermont Low and Zero Emission Vehicle Regulations, Agency of Natural Resources, page 4

- Committee discussions deferred to the August meeting:
 - ICAR's role in the rulemaking and authority structure in Vermont's government, equity and accessibility to all, and public notification
 - Possible future action items:
 - Inter-agency/department communications on proposed filings
 - Annual internal survey pertaining to anticipated upcoming proposed rules
 - Strike-all proposed rules for transparency
- A special meeting will be set within the next couple of weeks to review the Vermont Low and Zero Emission Vehicle Regulations, Agency of Natural Resources
- Next scheduled meeting is Monday, August 8, 2022 at 2:00 p.m.
- 4:08 p.m. meeting adjourned.

Proposed Rule: Term and Universal Life Insurance Reserve Financing (Reg. 22-017-I), Department of Financial Regulation

Presented By: Dan Raddock, Hillary Borcharding and Karen Ducharme

Motion made to accept the rule by John Kessler, seconded by Diane Bothfeld, and passed unanimously except for Diane Sherman who abstained, with the following recommendations:

1. Proposed Filing Coversheet, #10: Remove the authority reference. Define 'ceded' as it pertains to the context of the proposed rule in #8, Concise Summary for clarity to the public.
2. Economic Impact Analysis, #6 and #7: Remove the first sentence in #6. Include language that there is a high threshold to be in the field.



Economic Impact Analysis

Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify "No impact anticipated" in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

1. TITLE OF RULE FILING:

**Term and Universal Life Insurance Reserve Financing
(Reg. 22-017-I)**

2. ADOPTING AGENCY:

Department of Financial Regulation

3. CATEGORY OF AFFECTED PARTIES:

LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:

Insurers issuing term and universal life insurance products; the captive insurance industry, large banks and reinsurers who provide secondary guarantees for such transactions. For each of the affected parties, there is no anticipated economic impact since the rule is merely formalizing accepted practices. The proposed

rule exclusively regulates financial transactions utilized by large insurers and does not impact consumer policies. The rule implements guidelines already in effect in Vermont. It will not affect the price of insurance because the relevant financing transactions take place at the insurer level and do not impact the contract between consumers and the insurer. In states that were not already utilizing similar guidelines, implementation of this rule could provide additional assurances to consumers that appropriate assets will be available to pay future claims. Vermont implemented these guidelines in 2015, therefore there will be no impact on consumers.

4. IMPACT ON SCHOOLS:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:

No impact anticipated.

5. ALTERNATIVES: CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.

The proposed rule is based on the widely accepted and mandated NAIC model regulations. No alternative was presented nor is there an alternative if Vermont wishes to remain an NAIC accredited jurisdiction and remain in conformity with other jurisdictions.

6. IMPACT ON SMALL BUSINESSES:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):

The proposed rule does not apply to small businesses. The capitalization and reserve requirements that apply to life insurance companies in general, and specifically to the largest life insurers engaging in reserve financing transactions, are so significant that small businesses are precluded from engaging in these transactions. Further, the proposed rule codifies existing practices, therefore there would be no changes for small businesses implicated by this proposed rule.

7. **SMALL BUSINESS COMPLIANCE:** *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

The proposed rule does not apply to small businesses. The capitalization and reserve requirements that apply to life insurance companies in general, and specifically to the largest life insurers engaging in reserve financing transactions, are so significant that small businesses are precluded from engaging in these transactions. Therefore no costs of compliance will apply to small businesses.

8. **COMPARISON:**

COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:

The proposed rule does not regulate small businesses. Further, the proposed rule does not alter Vermont's current process for evaluating reserve financing transactions. Rather, it codifies existing actuarial guidelines that were already being used in Vermont. As this rule makes no changes to current practice, there is no anticipated economic impact. Compared to having no rule, there will be no change within the State of Vermont. On a national level, adoption of this regulation by all states and territories will provide nation-wide consistency for life insurers engaged in reserve financing transactions.

Adoption of this new rule is an NAIC accreditation requirement. Therefore, adoption of this rule will ensure that Vermont remains an NAIC accredited state. Losing accreditation brings with it significant negative consequences, including potentially causing Vermont insurers to seek another state as their domicile, with negative economic consequences to the state, as well as significant damages to the reputation of the Department.

9. **SUFFICIENCY:** *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

The new rule is fully consistent with the current

practices and procedures used in Vermont to evaluate these transactions, therefore, none of the parties to such reserve financing transactions will be forced to change their current processes or procedures in Vermont. The lack of substantive change makes the Department confident that the proposed rule will have no economic impact. The NAIC has not performed a nationwide cost/benefit analysis with respect to the new rule as it does not believe that the specific cost for insurance companies to comply with the proposed rule and the impact on state insurance departments to enforce the rule are reasonably quantifiable.

Environmental Impact Analysis

Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify "No impact anticipated" in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

1. TITLE OF RULE FILING:

**Term and Universal Life Insurance Reserve Financing
(Reg. 22-017-I)**

2. ADOPTING AGENCY:

Department of Financial Regulation

3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*
No impact anticipated.

4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*
No impact anticipated.

5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*
No impact anticipated.

6. RECREATION: *EXPLAIN HOW THE RULE IMPACT RECREATION IN THE STATE:*

No impact anticipated.

7. CLIMATE: *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*

No impact anticipated.

8. OTHER: *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*

No impact anticipated.

9. SUFFICIENCY: *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

The new rule is fully consistent with the current practices and procedures used in Vermont to evaluate these transactions; therefore, the Department is confident that codifying these practices will not result in any environmental impact.

Public Input Maximization Plan

Instructions:

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

1. TITLE OF RULE FILING:

**Term and Universal Life Insurance Reserve Financing
(Reg. 22-017-I)**

2. ADOPTING AGENCY:

Department of Financial Regulation

3. PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

The new rule being proposed by the Department today is the product of over seven years of work and collaboration among the various states, the NAIC and industry. The insurers impacted by these rules are some of the largest insurers in the marketplace and those entities, or their representatives, have had ample opportunities to comment on the drafting of this rule. Policyholders/consumers are not directly impacted by this rule. Therefore, the most relevant outreach throughout the drafting process was at the insurer level. In addition, because the new rule is an NAIC accreditation requirement and merely codifies the existing practices used by the Department in evaluating life insurance reserve financing transaction, the need for the adoption of the new rule is understood and expected by affected parties.

In response to the adoption of Model Rule 787 as an NAIC accreditation standard, Vermont was required to

Public Input

amend the enabling language included in Vermont's Credit for Reinsurance Law, 8 V.S.A. § 3634a et seq. These amendments were included in House Bill 515, which was signed into law on May 27, 2022. The Department's exercise in amending 8 V.S.A. § 3634a was solely motivated by the need to adopt Model Rule 787 by September 2022. The legislature was informed of this motivation as were industry representatives during the process of revising the Vermont Credit for Reinsurance Law.

Going forward, the Department will continue to engage stakeholders by participating in the required Vermont APA process. The Department will also make paper copies of this rule available for anyone lacking internet access.

4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

In addition to the APA-required notice and hearing requirement, the Department continues to engage stakeholders throughout the rulemaking process, including the NAIC, Vermont Captive Insurance Association (VCIA), and representatives from the life insurance and reinsurance industries. Further, the Department will provide notice to the law firms commonly retained to complete reserve financing transactions in Vermont and nationwide.

Incorporation by Reference

THIS FORM IS ONLY REQUIRED WHEN INCORPORATING MATERIALS BY REFERENCE. PLEASE REMOVE PRIOR TO DELIVERY IF IT DOES NOT APPLY TO THIS RULE FILING:

Instructions:

In completing the incorporation by reference statement, an agency describes any materials that are incorporated into the rule by reference and how to obtain copies.

This form is only required when a rule incorporates materials by referencing another source without reproducing the text within the rule itself (e.g., federal or national standards, or regulations).

Incorporated materials will be maintained and available for inspection by the Agency.

1. TITLE OF RULE FILING:

**Term and Universal Life Insurance Reserve Financing
(Reg. 22-017-I)**

2. ADOPTING AGENCY:

Department of Financial Regulation

3. DESCRIPTION (*DESCRIBE THE MATERIALS INCORPORATED BY REFERENCE*):

The proposed rule incorporates Vermont laws and regulations as well as the NAIC Accounting Practices and Procedures Manual and the NAIC Valuation Manual as described in the Standard Valuation Law (VM-20). No federal laws or regulations are incorporated by reference.

4. FORMAL CITATION OF MATERIALS INCORPORATED BY REFERENCE:

NAIC Accounting Practices and Procedures Manual; NAICs' Valuation Manual (VM-20). No federal laws or regulations are incorporated by reference.

5. OBTAINING COPIES: (*EXPLAIN WHERE THE PUBLIC MAY OBTAIN THE MATERIAL(S) IN WRITTEN OR ELECTRONIC FORM, AND AT WHAT COST*):

Incorporated NAIC manuals are available at the following links:

<https://naic.soutronglobal.net/Portal/Public/en-US/RecordView/Index/11361>

<https://content.naic.org/sites/default/files/publication-valuation-manual-2021.pdf>

Hillary Borcharding at the Department can be contacted via phone (802) 249-6512 or via email

Hillary.Borcharding@Vermont.gov for access to paper copies of these materials should any member of the public not have internet access.

6. MODIFICATIONS (*PLEASE EXPLAIN ANY MODIFICATION TO THE INCORPORATED MATERIALS E.G., WHETHER ONLY PART OF THE MATERIAL IS ADOPTED AND IF SO, WHICH PART(S) ARE MODIFIED*):

None.

Run Spell Check

**Responsiveness Summary to the
Proposed Term and Universal Life Reserve Financing Rule**

The proposed Term and Universal Life Reserve Financing Rule was filed with the Secretary of State on June 17, 2022. A public hearing was held on July 27, 2022, and the public comment period closed on August 5, 2022. During this time, the Department of Financial Regulation received no public comments written or oral. As such, no responsive summary is required.

TERM AND UNIVERSAL LIFE INSURANCE RESERVE FINANCING
Reg. 22-017-I

Section 1. Authority

This regulation is adopted and promulgated by the Department of Financial Regulation pursuant to 8 V.S.A. § 3634a(e), as well as 8 V.S.A. § 15(a).

Section 2. Purpose and Intent

The purpose and intent of this regulation is to establish uniform, national standards governing reserve financing arrangements pertaining to life insurance policies containing guaranteed nonlevel gross premiums, guaranteed nonlevel benefits and universal life insurance policies with secondary guarantees; and to ensure that, with respect to each such financing arrangement, funds consisting of Primary Security and Other Security, as defined in Section 5 of this Regulation, are held by or on behalf of ceding insurers in the forms and amounts required herein. In general, reinsurance ceded for reserve financing purposes has one or more of the following characteristics: some or all of the assets used to secure the reinsurance treaty or to capitalize the reinsurer (1) are issued by the ceding insurer or its affiliates; or (2) are not unconditionally available to satisfy the general account obligations of the ceding insurer; or (3) create a reimbursement, indemnification or other similar obligation on the part of the ceding insurer or any of its affiliates (other than a payment obligation under a derivative contract acquired in the normal course and used to support and hedge liabilities pertaining to the actual risks in the policies ceded pursuant to the reinsurance treaty).

Section 3. Applicability

This regulation shall apply to reinsurance treaties that cede liabilities pertaining to Covered Policies, as that term is defined in Section 5B, issued by any life insurance company domiciled in this state. This regulation and DFR Insurance Regulation No. 97-3 (Credit for Reinsurance) shall both apply to such reinsurance treaties; provided, that in the event of a direct conflict between the provisions of this regulation and DFR Insurance Regulation No. 97-3 (Credit for Reinsurance), the provisions of this regulation shall apply, but only to the extent of the conflict.

Section 4. Exemptions from this Regulation

This regulation does not apply to the situations described in Subsections A through F.

A. Reinsurance of:

- (1) Policies that satisfy the criteria for exemption set forth in DFR Insurance Regulation No. 99-3(6)(F) or No. 99-3(6)(G) (Valuation of Life Insurance Policies); and which are issued before the later of:
 - (a) The effective date of this regulation, and
 - (b) The date on which the ceding insurer begins to apply the provisions of VM-20 to establish the ceded policies' statutory reserves, but in no event later than January 1, 2020;

- (2) Portions of policies that satisfy the criteria for exemption set forth in DFR Insurance Regulation No. 99-3(6)(E) (Valuation of Life Insurance Policies) and which are issued before the later of:
 - (a) The effective date of this regulation, and
 - (b) The date on which the ceding insurer begins to apply the provisions of VM-20 to establish the ceded policies' statutory reserves, but in no event later than January 1, 2020;
 - (3) Any universal life policy that meets all of the following requirements:
 - (a) Secondary guarantee period, if any, is five (5) years or less;
 - (b) Specified premium for the secondary guarantee period is not less than the net level reserve premium for the secondary guarantee period based on the Commissioners Standard Ordinary (CSO) valuation tables and valuation interest rate applicable to the issue year of the policy; and
 - (c) The initial surrender charge is not less than one hundred percent (100%) of the first year annualized specified premium for the secondary guarantee period;
 - (4) Credit life insurance;
 - (5) Any variable life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts; or
 - (6) Any group life insurance certificate unless the certificate provides for a stated or implied schedule of maximum gross premiums required in order to continue coverage in force for a period in excess of one year.
- B. Reinsurance ceded to an assuming insurer that meets the applicable requirements of 8 V.S.A. § 3634a(b)(4)(A) (Credit for Reinsurance); or
- C. Reinsurance ceded to an assuming insurer that meets the applicable requirements of 8 V.S.A. § 3634a(b)(1), § 3634a(b)(2), or § 3634a(b)(3)(A) (Credit for Reinsurance), and that, in addition:
- (1) Prepares statutory financial statements in compliance with the NAIC Accounting Practices and Procedures Manual, without any departures from NAIC statutory accounting practices and procedures pertaining to the admissibility or valuation of assets or liabilities that increase the assuming insurer's reported surplus and are material enough that they need to be disclosed in the financial statement of the assuming insurer pursuant to Statement of Statutory Accounting Principles No. 1 ("SSAP 1"); and
 - (2) Is not in a Company Action Level Event, Regulatory Action Level Event, Authorized Control Level Event, or Mandatory Control Level Event as those terms are defined in 8 V.S.A. §§ 8301 et seq. when its RBC is calculated in accordance with the life risk-based capital report including overview and

instructions for companies, as the same may be amended by the NAIC from time to time, without deviation; or

- D. Reinsurance ceded to an assuming insurer that meets the applicable requirements of 8 V.S.A. § 3634a(b)(1), § 3634a(b)(2) or § 3634a(b)(3)(A) (Credit for Reinsurance), and that, in addition:
- (1) Is not an affiliate, as that term is defined in 8 V.S.A. § 3681(1) (Holding Companies and Subsidiaries), of:
 - (a) The insurer ceding the business to the assuming insurer; or
 - (b) Any insurer that directly or indirectly ceded the business to that ceding insurer;
 - (2) Prepares statutory financial statements in compliance with the NAIC Accounting Practices and Procedures Manual;
 - (3) Is both:
 - (a) Licensed or accredited in at least 10 states (including its state of domicile), and
 - (b) Not licensed in any state as a captive, special purpose vehicle, special purpose financial captive, special purpose life reinsurance company, limited purpose subsidiary, or any other similar licensing regime; and
 - (4) Is not, or would not be, below 500% of the Authorized Control Level RBC as that term is defined in 8 V.S.A. §§ 8301 et seq. (Risk Based Capital for Insurers) when its Risk-Based Capital (RBC) is calculated in accordance with the life risk-based capital report including overview and instructions for companies, as the same may be amended by the NAIC from time to time, without deviation, and without recognition of any departures from NAIC statutory accounting practices and procedures pertaining to the admission or valuation of assets or liabilities that increase the assuming insurer's reported surplus; or
- E. Reinsurance ceded to an assuming insurer that meets the requirements of 8 V.S.A. § 3634a(e)(4) (Credit for Reinsurance); or
- F. Reinsurance not otherwise exempt under Subsections A through E if the commissioner, after consulting with the NAIC Financial Analysis Working Group (FAWG) or other group of regulators designated by the NAIC, as applicable, determines under all the facts and circumstances that all of the following apply:
- (1) The risks are clearly outside of the intent and purpose of this regulation (as described in Section 2 above);
 - (2) The risks are included within the scope of this regulation only as a technicality; and
 - (3) The application of this regulation to those risks is not necessary to provide appropriate protection to policyholders. The commissioner shall publicly disclose any decision made pursuant to this Section 4F to exempt a reinsurance treaty

from this regulation, as well as the general basis therefor (including a summary description of the treaty).

Section 5. Definitions

- A. "Actuarial Method" means the methodology used to determine the Required Level of Primary Security, as described in Section 6.
- B. "Covered Policies" means the following: Subject to the exemptions described in Section 4, Covered Policies are those policies, other than Grandfathered Policies, of the following policy types:
 - (1) Life insurance policies with guaranteed nonlevel gross premiums and/or guaranteed nonlevel benefits, except for flexible premium universal life insurance policies; or,
 - (2) Flexible premium 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. "Grandfathered Policies" means policies of the types described in Subsections B1 and B2 above that were:
 - (1) Issued prior to January 1, 2015; and
 - (2) Ceded, as of December 31, 2014, as part of a reinsurance treaty that would not have met one of the exemptions set forth in Section 4 had that section then been in effect.
- D. "Non-Covered Policies" means any policy that does not meet the definition of Covered Policies, including Grandfathered Policies.
- E. "Required Level of Primary Security" means the dollar amount determined by applying the Actuarial Method to the risks ceded with respect to Covered Policies, but not more than the total reserve ceded.
- F. "Primary Security" means the following forms of security:
 - (1) Cash meeting the requirements of 8 V.S.A. § 3634a(c)(1) (Credit for Reinsurance);
 - (2) Securities listed by the Securities Valuation Office meeting the requirements of 8 V.S.A. § 3634a(c)(2) (Credit for Reinsurance), but excluding any synthetic letter of credit, contingent note, credit-linked note or other similar security that operates in a manner similar to a letter of credit, and excluding any securities issued by the ceding insurer or any of its affiliates; and
 - (3) For security held in connection with funds-withheld and modified coinsurance reinsurance treaties:
 - (a) Commercial loans in good standing of CM3 quality and higher;
 - (b) Policy Loans; and

- (c) Derivatives acquired in the normal course and used to support and hedge liabilities pertaining to the actual risks in the policies ceded pursuant to the reinsurance treaty.
- G. "Other Security" means any security acceptable to the commissioner other than security meeting the definition of Primary Security.
- H. "Valuation Manual" means the valuation manual adopted by the NAIC as described in Section 11B(1) of the Standard Valuation Law, with all amendments adopted by the NAIC that are effective for the financial statement date on which credit for reinsurance is claimed.

Section 6. The Actuarial Method

A. Actuarial Method

- (1) The Actuarial Method to establish the Required Level of Primary Security for each reinsurance treaty subject to this regulation shall be VM-20, applied on a treaty-by-treaty basis, including all relevant definitions, from the Valuation Manual as then in effect, applied as follows: For Covered Policies described in Section 5B(1) above, the Actuarial Method is the greater of the Deterministic Reserve or the Net Premium Reserve (NPR) regardless of whether the criteria for exemption testing can be met. However, if the Covered Policies do not meet the requirements of the Stochastic Reserve exclusion test in the Valuation Manual, then the Actuarial Method is the greatest of the Deterministic Reserve, the Stochastic Reserve, or the NPR. In addition, if such Covered Policies are reinsured in a reinsurance treaty that also contains Covered Policies described in Section 5B(2) above, the ceding insurer may elect to instead use paragraph 2 below as the Actuarial Method for the entire reinsurance agreement. Whether Paragraph 1 or 2 are used, the Actuarial Method must comply with any requirements or restrictions that the Valuation Manual imposes when aggregating these policy types for purposes of principle-based reserve calculations.
- (2) For Covered Policies described in Section 5B(2) above, the Actuarial Method is the greatest of the Deterministic Reserve, the Stochastic Reserve, or the NPR regardless of whether the criteria for exemption testing can be met.
- (3) Except as provided in Paragraph (4) below, the Actuarial Method is to be applied on a gross basis to all risks with respect to the Covered Policies as originally issued or assumed by the ceding insurer.
- (4) If the reinsurance treaty cedes less than one hundred percent (100%) of the risk with respect to the Covered Policies then the Required Level of Primary Security may be reduced as follows:
 - (a) If a reinsurance treaty cedes only a quota share of some or all of the risks pertaining to the Covered Policies, the Required Level of Primary Security, as well as any adjustment under Subparagraph (c) below, may be reduced to a pro rata portion in accordance with the percentage of the risk ceded;

- (b) If the reinsurance treaty in a non-exempt arrangement cedes only the risks pertaining to a secondary guarantee, the Required Level of Primary Security may be reduced by an amount determined by applying the Actuarial Method on a gross basis to all risks, other than risks related to the secondary guarantee, pertaining to the Covered Policies, except that for Covered Policies for which the ceding insurer did not elect to apply the provisions of VM- 20 to establish statutory reserves, the Required Level of Primary Security may be reduced by the statutory reserve retained by the ceding insurer on those Covered Policies, where the retained reserve of those Covered Policies should be reflective of any reduction pursuant to the cession of mortality risk on a yearly renewable term basis in an exempt arrangement;
- (c) If a portion of the Covered Policy risk is ceded to another reinsurer on a yearly renewable term basis in an exempt arrangement, the Required Level of Primary Security may be reduced by the amount resulting by applying the Actuarial Method including the reinsurance section of VM- 20 to the portion of the Covered Policy risks ceded in the exempt arrangement, except that for Covered Policies issued prior to Jan 1, 2017, this adjustment is not to exceed $[cx / (2 * \text{number of reinsurance premiums per year})]$ where cx is calculated using the same mortality table used in calculating the Net Premium Reserve; and
- (d) For any other treaty ceding a portion of risk to a different reinsurer, including but not limited to stop loss, excess of loss and other non-proportional reinsurance treaties, there will be no reduction in the Required Level of Primary Security.

It is possible for any combination of Subparagraphs (a), (b), (c), and (d) above to apply. Such adjustments to the Required Level of Primary Security will be done in the sequence that accurately reflects the portion of the risk ceded via the treaty. The ceding insurer should document the rationale and steps taken to accomplish the adjustments to the Required Level of Primary Security due to the cession of less than one hundred percent (100%) of the risk.

The Adjustments for other reinsurance will be made only with respect to reinsurance treaties entered into directly by the ceding insurer. The ceding insurer will make no adjustment as a result of a retrocession treaty entered into by the assuming insurers.

- (5) In no event will the Required Level of Primary Security resulting from application of the Actuarial Method exceed the amount of statutory reserves ceded.
- (6) If the ceding insurer cedes risks with respect to Covered Policies, including any riders, in more than one reinsurance treaty subject to this Regulation, in no event will the aggregate Required Level of Primary Security for those reinsurance treaties be less than the Required Level of Primary Security calculated using the Actuarial Method as if all risks ceded in those treaties were ceded in a single treaty subject to this Regulation;

- (7) If a reinsurance treaty subject to this Regulation cedes risk on both Covered and Non-Covered Policies, credit for the ceded reserves shall be determined as follows:
- (a) The Actuarial Method shall be used to determine the Required Level of Primary Security for the Covered Policies, and Section 7 shall be used to determine the reinsurance credit for the Covered Policy reserves; and
 - (b) Credit for the Non-Covered Policy reserves shall be granted only to the extent that security, in addition to the security held to satisfy the requirements of Subparagraph (a), is held by or on behalf of the ceding insurer in accordance with 8 V.S.A. § 3634a(b) and § 3634a(c) (Credit for Reinsurance). Any Primary Security used to meet the requirements of this Subparagraph may not be used to satisfy the Required Level of Primary Security for the Covered Policies.

B. Valuation used for Purposes of Calculations

For the purposes of both calculating the Required Level of Primary Security pursuant to the Actuarial Method and determining the amount of Primary Security and Other Security, as applicable, held by or on behalf of the ceding insurer, the following shall apply:

- (1) For assets, including any such assets held in trust, that would be admitted under the NAIC Accounting Practices and Procedures Manual if they were held by the ceding insurer, the valuations are to be determined according to statutory accounting procedures as if such assets were held in the ceding insurer's general account and without taking into consideration the effect of any prescribed or permitted practices; and
- (2) For all other assets, the valuations are to be those that were assigned to the assets for the purpose of determining the amount of reserve credit taken. In addition, the asset spread tables and asset default cost tables required by VM-20 shall be included in the Actuarial Method if adopted by the NAIC's Life Actuarial (A) Task Force no later than the Dec. 31st on or immediately preceding the valuation date for which the Required Level of Primary Security is being calculated. The tables of asset spreads and asset default costs shall be incorporated into the Actuarial Method in the manner specified in VM-20.

Section 7. Requirements Applicable to Covered Policies to Obtain Credit for Reinsurance; Opportunity for Remediation

A. Requirements

Subject to the exemptions described in Section 4 and the provisions of Section 7B, credit for reinsurance shall be allowed with respect to ceded liabilities pertaining to Covered Policies pursuant to 8 V.S.A. § 3634a(b) or § 3634a(c) (Credit for Reinsurance) if, and only if, in addition to all other requirements imposed by law or regulation, the following requirements are met on a treaty-by-treaty basis:

- (1) The ceding insurer's statutory policy reserves with respect to the Covered Policies are established in full and in accordance with the applicable requirements of 8 V.S.A. §§ 3791 et seq. and related regulations and actuarial guidelines, and credit claimed for any reinsurance treaty subject to this regulation does not exceed the proportionate share of those reserves ceded under the contract; and
- (2) The ceding insurer determines the Required Level of Primary Security with respect to each reinsurance treaty subject to this regulation and provides support for its calculation as determined to be acceptable to the commissioner; and
- (3) Funds consisting of Primary Security, in an amount at least equal to the Required Level of Primary Security, are held by or on behalf of the ceding insurer, as security under the reinsurance treaty within the meaning of 8 V.S.A. § 3634a(c) (Credit for Reinsurance), on a funds withheld, trust, or modified coinsurance basis; and
- (4) Funds consisting of Other Security, in an amount at least equal to any portion of the statutory reserves as to which Primary Security is not held pursuant to Paragraph (3) above, are held by or on behalf of the ceding insurer as security under the reinsurance treaty within the meaning of 8 V.S.A. § 3634a(c) (Credit for Reinsurance); and
- (5) Any trust used to satisfy the requirements of this Section 7 shall comply with all of the conditions and qualifications of DFR Insurance Regulation No. 97-3(12) (Credit for Reinsurance), except that:
 - (a) Funds consisting of Primary Security or Other Security held in trust, shall for the purposes identified in Section 6B, be valued according to the valuation rules set forth in Section 6B, as applicable; and
 - (b) There are no affiliate investment limitations with respect to any security held in such trust if such security is not needed to satisfy the requirements of Section 7A(3); and
 - (c) The reinsurance treaty must prohibit withdrawals or substitutions of trust assets that would leave the fair market value of the Primary Security within the trust (when aggregated with Primary Security outside the trust that is held by or on behalf of the ceding insurer in the manner required by Section 7A(3)) below 102% of the level required by Section 7A(3) at the time of the withdrawal or substitution; and
 - (d) The determination of reserve credit under Subsection of DFR Insurance Regulation No. 97-3(12)(E) (Credit for Reinsurance) shall be determined according to the valuation rules set forth in Section 6B, as applicable; and
- (6) The reinsurance treaty has been approved by the commissioner.

B. Requirements at Inception Date and on an On-going Basis; Remediation

- (1) The requirements of Section 7A must be satisfied as of the date that risks under Covered Policies are ceded (if such date is on or after the effective date of this regulation) and on an ongoing basis thereafter. Under no circumstances shall a ceding insurer take or consent to any action or series of actions that would result in a deficiency under Section 7A(3) or 7A(4) with respect to any reinsurance treaty under which Covered Policies have been ceded, and in the event that a ceding insurer becomes aware at any time that such a deficiency exists, it shall use its best efforts to arrange for the deficiency to be eliminated as expeditiously as possible.
- (2) Prior to the due date of each Quarterly or Annual Statement, each life insurance company that has ceded reinsurance within the scope of Section 3 shall perform an analysis, on a treaty-by-treaty basis, to determine, as to each reinsurance treaty under which Covered Policies have been ceded, whether as of the end of the immediately preceding calendar quarter (the valuation date) the requirements of Sections 7A(3) and 7A(4) were satisfied. The ceding insurer shall establish a liability equal to the excess of the credit for reinsurance taken over the amount of Primary Security actually held pursuant to Section 7A(3), unless either:
 - (a) The requirements of Section 7A(3) and 7A(4) were fully satisfied as of the valuation date as to such reinsurance treaty; or
 - (b) Any deficiency has been eliminated before the due date of the Quarterly or Annual Statement to which the valuation date relates through the addition of Primary Security and/or Other Security, as the case may be, in such amount and in such form as would have caused the requirements of Section 7A(3) and 7A(4) to be fully satisfied as of the valuation date.
- (3) Nothing in Section 7B(2) shall be construed to allow a ceding company to maintain any deficiency under Section 7A(3) or 7A(4) for any period of time longer than is reasonably necessary to eliminate it.

Section 8. Severability

If any provision of this regulation is held invalid, the remainder shall not be affected.

Section 9. Prohibition against Avoidance

No insurer that has Covered Policies as to which this regulation applies (as set forth in Section 3) shall take any action or series of actions, or enter into any transaction or arrangement or series of transactions or arrangements if the purpose of such action, transaction or arrangement or series thereof is to avoid the requirements of this regulation, or to circumvent its purpose and intent, as set forth in Section 2.

Section 10. Effective Date

This regulation shall become effective on the day of adoption and shall pertain to all Covered Policies in force as of and after that date

No. 139. An act relating to banking, insurance, and securities.

(H.515)

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Insurance; Securities; Banking * * *

Sec. 1. 8 V.S.A. § 3685(f)(1) is amended to read:

(1) Sales, purchases, exchanges, loans, or extensions of credit,
~~guarantees~~, or investments, provided such transactions are equal to or exceed:

* * *

Sec. 2. 9 V.S.A. § 5302(e) is amended to read:

(e) At the time of the filing of the information prescribed in ~~subsections~~
subsection (a), (b), (c), or (d) of this section, except investment companies
subject to 15 U.S.C. § 80a-1 et seq., the issuer shall pay to the Commissioner a
fee of \$600.00. ~~If the notice filing is withdrawn or otherwise terminated, the~~
~~Commissioner shall retain the fee paid~~ The fee is nonrefundable.

Sec. 3. 9 V.S.A. § 5305(b) is amended to read:

(b) A person filing a registration statement shall pay a filing fee of \$600.00.
A person filing a registration statement in connection with the New England
Crowdfunding Initiative shall be exempt from the filing fee requirement.
Open-end investment companies shall pay a registration fee and an annual
renewal fee for each portfolio as long as the registration of those securities
remains in effect. ~~If a registration statement is withdrawn before the effective~~

a whistleblower submission for the individual's own benefit, unless disclosure would otherwise be permitted by an attorney pursuant to applicable state attorney conduct rules or otherwise.

(9) The rights and remedies provided for in this section may not be waived by any agreement, policy form, or condition of employment, including by a predispute arbitration agreement.

(10) Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any individual under any federal or state law, or under any collective bargaining agreement.

(k) The Commissioner may adopt such rules as may be necessary or appropriate to implement the provisions of this section consistent with its purpose.

* * * Credit for Reinsurance * * *

Sec. 23. 8 V.S.A. § 3634a is amended to read:

§ 3634a. CREDIT FOR REINSURANCE

(a) Purpose. It is the purpose of this section to protect the interest of insureds, claimants, ceding insurers, assuming insurers, and the public generally. The General Assembly hereby declares its intent is to ensure adequate regulation of insurers and reinsurers and adequate protection for those to whom they owe obligations. In furtherance of that State interest, the General Assembly hereby provides a mandate that upon the insolvency of a non-U.S. insurer or reinsurer that provides security to fund its U.S. obligations

Dear Mr. [Name],

I have received your letter of the [Date] regarding [Subject].

I am sorry that I cannot give you a more definite answer at this time.

The matter is still under consideration and I will contact you again as soon as a final decision has been reached.

I appreciate your patience and understanding.

Very truly yours,

[Signature]

[Name]

[Address]

[City, State, Zip]

[Phone Number]

[Additional Information]

in accordance with this section, the assets representing the security shall be maintained in the United States and claims shall be filed with and valued by the state insurance Commissioner with regulatory oversight, and the assets shall be distributed in accordance with the insurance laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic U.S. insurance companies. The General Assembly declares that the matters contained in this section are fundamental to the business of insurance in accordance with 15 U.S.C. §§ 1011-1012.

(b) Credit allowed a domestic ceding insurer. Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a ~~deduction~~ reduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of subdivision (1), (2), (3), (4), (5), (6), or (7) of this subsection (b), provided that the Commissioner may adopt by rule or regulation pursuant to subdivision (e)(2) of this section specific additional requirements relating to any or all of the following: the valuation of assets or reserve credits, the amount and forms of security supporting reinsurance arrangements described in subdivision (e)(2) of this section, or the circumstances pursuant to which credit will be reduced or eliminated. Credit shall be allowed under subdivision (1), (2), or (3) of this subsection (b) only with respect 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 U.S. branch of an alien assuming insurer, in the

1870

Received of the Hon. Secy of the Navy

the sum of \$1000

for the purchase of

the sum of \$1000

for the purchase of

the sum of \$1000

for the purchase of

the sum of \$1000

for the purchase of

the sum of \$1000

for the purchase of

state through which it is entered and licensed to transact insurance or reinsurance. Credit shall be allowed under subdivision (3) or (4) of this subsection (b) only if the applicable requirements of subdivision (8) of this subsection (b) have been satisfied.

(1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is licensed to transact insurance or reinsurance in this State.

(2) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is accredited by the Commissioner as a reinsurer in this State. An accredited reinsurer is one that:

(A) files with the Commissioner evidence of its submission to this State's jurisdiction;

(B) submits to this State's authority to examine its books and records;

(C) is licensed to transact insurance or reinsurance in at least one state or, in the case of a U.S. branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;

(D) files annually with the Commissioner ~~on or before March 1 of each year~~ a copy of its annual statement filed with the insurance department of its state of domicile and ~~files on or before June 1 of each year~~ a copy of its most recent audited financial statement;

(E) files with the Commissioner its charter, bylaws, and any other material required by the Commissioner;

1. The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that this is essential for ensuring the integrity of the financial statements and for providing a clear audit trail. The text notes that any discrepancies or errors in the records can lead to significant complications during an audit and may result in the disallowance of certain expenses.

2. The second part of the document addresses the issue of proper documentation. It states that all receipts and invoices must be properly filed and indexed. This not only facilitates the audit process but also helps in the identification and correction of any missing or incomplete records. The document further explains that the lack of proper documentation can be a major red flag for auditors and may lead to a more extensive and costly audit.

3. The third part of the document focuses on the importance of timely reporting. It highlights that all financial information should be reported to the appropriate authorities in a timely and accurate manner. This is crucial for maintaining the trust of stakeholders and for ensuring compliance with applicable laws and regulations. The text also notes that late reporting can result in penalties and may damage the organization's reputation.

4. The fourth part of the document discusses the role of internal controls. It explains that a strong system of internal controls is essential for preventing and detecting errors and fraud. This includes the implementation of segregation of duties, regular reconciliations, and the use of automated systems where possible. The document stresses that internal controls are not just a means to an end, but a fundamental part of the organization's financial management process.

5. The fifth part of the document provides a summary of the key points discussed. It reiterates the importance of accurate records, proper documentation, timely reporting, and a strong system of internal controls. The text concludes by stating that these practices are essential for the success of any organization and for the protection of its financial interests.

(F) pays an initial fee of \$500.00 and thereafter an annual fee of \$200.00 on or before March 1 of each year; and

(G) demonstrates to the satisfaction of the 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, provided that at the time of its application it:

(i) maintains a surplus for policyholders that is not less than \$20,000,000.00 and whose accreditation has not been denied by the Commissioner within 90 days ~~of~~ following its submission; or

(ii) maintains a surplus for policyholders in an amount less than \$20,000,000.00 and whose accreditation has been approved the Commissioner.

~~(H) Credit for reinsurance ceded to a certified reinsurer shall be permitted only for reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer by the Commissioner.~~

(3)(A) Credit shall be allowed when the reinsurance is ceded to an assuming insurer ~~which~~ that is domiciled and licensed in, or in the case of a U.S. 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 U.S. branch of an alien assuming insurer:

Handwritten text, likely bleed-through from the reverse side of the page. The text is extremely faint and illegible due to the quality of the scan and the nature of the bleed-through.

(i) maintains a surplus for policyholders in an amount not less than \$20,000,000.00; and

(ii) submits to the authority of this State to examine its books and records.

(B) The requirement of subdivision (3)(A)(i) of this subsection (b) does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

(4)(A) Credit shall be allowed when the reinsurance is ceded to an assuming insurer ~~which~~ that maintains a trust fund in a qualified U.S. financial institution, as defined in subdivision (d)(2) of this section, for the payment of the valid claims of its U.S. ~~policyholders and~~ ceding insurers, their assigns, and successors in interest. The assuming insurer shall report annually to the Commissioner information required by the Commissioner and substantially the same as that required to be reported on the National Association of Insurance Commissioners' Annual Statement form by licensed insurers to enable the Commissioner to determine the sufficiency of the trust fund. ~~On or before February 28 of each year, the trustees of the trust shall report to the Commissioner in writing setting forth 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 next following December 31. A trust and trust instrument maintained pursuant to this subdivision shall:~~

1. The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that this is essential for the proper management of the organization's finances and for ensuring compliance with applicable laws and regulations.

2. The second part of the document outlines the specific procedures that should be followed when recording transactions. This includes the use of standardized forms and the requirement that all entries be supported by appropriate documentation, such as invoices and receipts.

3. The third part of the document addresses the issue of internal controls. It stresses that a robust system of internal controls is necessary to prevent errors and fraud, and to ensure the integrity of the financial reporting process.

4. The fourth part of the document discusses the role of the accounting department in providing timely and accurate financial information to management. It highlights the importance of regular communication and reporting to support informed decision-making.

5. The fifth part of the document concludes by reiterating the commitment to transparency and accountability in all financial activities. It expresses confidence that the outlined procedures will ensure the highest standards of financial management.

- ~~(i) be established in a form and upon such terms approved by the Commissioner;~~
- ~~(ii) provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States;~~
- ~~(iii) vest legal title to its assets in the trustees of the trust for its U.S. policyholders and ceding insurers, their assigns and successors in interest;~~
- ~~(iv) be subject to examination as determined by the Commissioner;~~
- ~~(v) remain in effect for as long as the assuming insurer shall have outstanding obligations due under the reinsurance agreements subject to the trust; and~~
- ~~(vi) be filed with the Commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The assuming insurer shall submit to examination of its books and records by the Commissioner and bear the expense of the examination.~~

(B)(i) Credit for reinsurance shall not be granted under this subsection (b) unless the form of the trust and any amendments to the trust have been approved by:

- (I) the commissioner of the state where the trust is domiciled;
- or

(II) the commissioner of another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust.

(ii) The form of the trust and any trust amendments also shall be filed with the 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 U.S. ceding insurers, their assigns, and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the Commissioner.

(iii) 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. Not later than February 28 of each year the trustee of the trust shall report to the Commissioner in writing the balance of the trust and a list of 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 will not expire prior to the following December 31.

(C) The following requirements shall apply to the following categories of assuming insurer:

First paragraph of faint text.

Second paragraph of faint text.

Third paragraph of faint text.

Fourth paragraph of faint text.

Fifth paragraph of faint text.

Sixth paragraph of faint text.

Seventh paragraph of faint text.

Eighth paragraph of faint text.

(i) In the case of a single assuming insurer, the trust fund shall consist of ~~a trustee account~~ funds in trust in an amount not less than representing the assuming insurer's liabilities attributable to ~~business written in the United States~~ reinsurance ceded by U.S. ceding insurers, and, in addition, the assuming insurer shall maintain a trustee surplus of not less than \$20,000,000.00, except at any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the ~~Commissioner~~ commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trustee surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of U.S. ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including when applicable the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trustee surplus may not be reduced to an amount less than 30 percent of the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers covered by the trust.

~~(C)(ii)(I)~~ In the case of a group including incorporated and individual unincorporated underwriters, ~~the trust shall consist of a trustee account~~

~~representing the group's liabilities attributable to business written in the United States and, in addition, the group shall maintain a trustee surplus of which \$100,000,000.00 shall be held jointly for the benefit of U.S. ceding insurers of any member of the group; the incorporated members of the group shall not engage in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members; and the group shall make available to the Commissioner an annual certification of the solvency of each underwriter by the group's domiciliary regulator and its independent public accountants:~~

(aa) 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 trusted account in an amount not less than the respective underwriters' several liabilities attributable to business ceded by U.S. domiciled ceding insurers to any underwriter of the group;

(bb) 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 section, 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

(cc) in addition to the trusts specified in subdivisions (aa) and (bb) of this subdivision (C)(ii)(I), the group shall maintain in trust a trusted surplus of which \$100,000,000.00 shall be held jointly for the benefit of U.S. domiciled ceding insurers of any member of the group for all years of the account.

(II) The incorporated members of the group shall not engage 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.

(III) Within 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 of the solvency of each underwriter member by the group's domiciliary regulator or, if certification is unavailable, financial statements prepared by independent public accountants of each underwriter member of the group.

~~(D)(iii)~~ In the case of a group of incorporated insurers under common administration ~~which complies with the filing requirements contained in subdivision (b)(2) of this section and which has,~~ the group shall:

(I) have continuously transacted an insurance business outside the United States for at least three years immediately prior to making application for accreditation, and submits to this State's authority to examine its books and records and bears the expense of the examination, and which has

~~aggregate policyholders' surplus of \$10,000,000,000.00, the trust shall be in an amount equal to the group's several liabilities attributable to business ceded by U.S. ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of such group, plus the group shall maintain a joint trustee surplus of which \$100,000,000.00 shall be held jointly for the benefit of U.S. ceding insurers of any member of the group as additional security for any such liabilities, and each member of the group shall make available to the Commissioner an annual certification of the member's solvency by the member's domiciliary regulator and its independent public accountant;~~

(II) maintain aggregate policyholders' surplus of at least \$10,000,000,000.00;

(III) maintain a trust fund in an amount not less than the group's several liabilities attributable to business ceded by U.S. domiciled ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of such group;

(IV) maintain a joint trustee surplus of which \$100,000,000.00 shall be held jointly for the benefit of U.S. domiciled ceding insurers of any member of the group as additional security for liabilities; and

(V) within 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

1875

...

...

...

...

...

...

...

...

...

by the member's domiciliary regulator and financial statements of each underwriter member of the group prepared by an independent public accountant.

(5) 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 subdivision.

(A) In order to be eligible for certification, the assuming insurer shall:

(i) be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the Commissioner under subdivision (C) of this subdivision (5);

(ii) maintain minimum capital and surplus, or its equivalent, in an amount to be determined by the Commissioner by rule or regulation;

(iii) maintain financial strength ratings from two or more rating agencies deemed acceptable by the Commissioner by rule or regulation;

(iv) 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 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers if it resists enforcement of a final U.S. judgment;

(v) 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

(vi) ~~the assuming insurer must~~ satisfy any other requirements for certification deemed relevant by the Commissioner.

(B) An ~~Association~~ association, including incorporated and individual unincorporated underwriters, may be a certified reinsurer. In order to be eligible for certification, in addition to satisfying the requirements of subdivision (A) of this subdivision (5):

(i) The ~~Association~~ association shall satisfy its minimum capital and surplus requirements through the capital and surplus equivalents, net of liabilities, of the ~~Association~~ association and its members, which shall include a joint central fund that may be applied to any unsatisfied obligation of the ~~Association~~ association or any of its members, in an amount determined by the Commissioner to provide adequate protection.

(ii) The incorporated members of the ~~Association~~ association shall not be engaged in any business other than underwriting as a member of the ~~Association~~ association and shall be subject to the same level of regulation and solvency control by the ~~Association's~~ association's domiciliary regulator as are the unincorporated members.

(iii) Within 90 days after its financial statements are due to be filed with the ~~Association's~~ association's domiciliary regulator, the

~~Association~~ association shall provide to the Commissioner an annual certification by the ~~Association's~~ 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~~ association.

(C) 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.

(i) In order to determine whether the domiciliary jurisdiction of a non-U.S. 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 extent of reciprocal recognition afforded by the non-U.S. 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 may not be recognized as a qualified jurisdiction if the Commissioner has determined that the jurisdiction does not adequately and promptly enforce final U.S. judgments and arbitration awards. Additional factors may be considered in the discretion of the Commissioner.

(ii) A list of qualified jurisdictions shall be published through the 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 by rule or regulation.

(iii) U.S. jurisdictions that meet the requirement for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions.

(iv) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the Commissioner has the discretion to suspend the reinsurer's certification indefinitely, in lieu of revocation.

(D) 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 by rule or regulation. The Commissioner shall publish a list of all certified reinsurers and their ratings.

(E) A certified reinsurer shall secure obligations assumed from U.S. ceding insurers under this subsection (b) at a level consistent with its rating, as specified in rules or regulations adopted by the Commissioner.

(i) 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 subsection (c) of this section or in a multibeneficiary trust in accordance with subdivision (4) of this subsection (b), except as otherwise provided in this subdivision.

(ii) If a certified reinsurer maintains a trust to fully secure its obligations subject to subdivision (4) of this subsection (b) 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 (b) or comparable laws of other U.S. jurisdictions and for its obligations subject to subdivision (4) of this subsection. It shall be a condition to the grant of certification under this subdivision (5) of this subsection (b) 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.

(iii) The minimum trusted surplus requirements provided in subdivision (4) of this subsection (b) are not applicable with respect to a multibeneficiary trust maintained by a certified reinsurer for the purpose of

Faint, illegible text, possibly bleed-through from the reverse side of the page.

securing obligations incurred under this ~~subsection~~ subdivision (5)(E), except that such trust shall maintain a minimum trusteed surplus of \$10,000,000.00.

(iv) With respect to obligations incurred by a certified reinsurer under this ~~subsection~~ subdivision (5)(E), if the security is insufficient, the Commissioner shall reduce the allowable credit by an amount proportionate to the deficiency and has the discretion to 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.

(v) For purposes of this subdivision (5), a certified reinsurer whose certification has been terminated for any reason shall be treated as a certified reinsurer required to secure 100 percent of its obligations.

(I) As used in this subdivision (5), the term "terminated" refers to revocation, suspension, voluntary surrender, and inactive status.

(II) If the Commissioner continues to assign a higher rating as permitted by other provisions of this section, this requirement does not apply to a certified reinsurer in inactive status or to a reinsurer whose certification has been suspended.

(F) If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the Commissioner has the discretion to defer to that jurisdiction's certification and has the discretion to defer to the rating assigned by that jurisdiction, and such assuming insurer shall be considered to be a certified reinsurer in this State.

(G) 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 (b), and the Commissioner shall assign a rating that takes into account, if relevant, the reasons why the reinsurer is not assuming new business.

(6)(A) Credit shall be allowed when the reinsurance is ceded to an assuming insurer meeting each of the conditions set forth below:

(i) The assuming insurer shall have its head office or be domiciled in, as applicable, and be licensed in a reciprocal jurisdiction. As used in this section, “reciprocal jurisdiction” means a jurisdiction that meets one of the following:

(I) a non-U.S. 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 European Union, is a member state of the European Union. As used in this ~~subsection~~ subdivision (b)(6), a “covered agreement” means an agreement entered into pursuant to Dodd-Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C. §§ 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;

(II) a U.S. jurisdiction that meets the requirements for accreditation under the NAIC financial standards and accreditation program; or

(III) a qualified jurisdiction, as determined by the Commissioner pursuant to subdivision (5)(C) of this subsection (b), that is not otherwise described in subdivision (6)(A)(i)(I) or (6)(A)(i)(II) of this subsection (b) and that meets certain additional requirements, consistent with the terms and conditions of in-force covered agreements, as specified by the Commissioner in rule or regulation.

(ii) The assuming insurer must 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 rule or regulation. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it must 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 rule or regulation.

(iii) The assuming insurer must have and maintain, on an ongoing basis, a minimum solvency or capital ratio, as applicable, ~~that~~ which will be set forth in rule or regulation. If the assuming insurer is an association, including

incorporated and individual unincorporated underwriters, it must 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, as applicable, and is also licensed.

(iv) The assuming insurer must agree and provide adequate assurance to the Commissioner, in a form specified in rule or regulation by the Commissioner, of the following:

(I) The assuming insurer must provide prompt written notice and explanation to the Commissioner if it falls below the minimum requirements set forth in subdivision (6)(A)(ii) or (6)(A)(iii) of this subsection, (b) or if any regulatory action is taken against it for serious noncompliance with applicable law.

(II) The assuming insurer must 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 ~~subsection~~ subdivision (6)(A)(iv)(II) shall 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.

(III) The assuming insurer must 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.

(IV) Each reinsurance agreement must include a provision requiring the assuming insurer to provide security in an amount equal to 100 percent of the assuming insurer's liabilities 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.

(V) The assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement that involves this State's ceding insurers, and agree to notify the ceding insurer and the Commissioner and to provide security in an amount equal to 100 percent of the assuming insurer's liabilities to the ceding insurer, should the assuming insurer enter into such a solvent scheme of arrangement. Such security shall be in a form consistent with the provisions of subdivision (b)(5) and subsection (c) of this section and as specified by the Commissioner in rule or regulation.

(v) The assuming insurer or its legal successor must provide, if requested by the Commissioner, on behalf of itself and any legal predecessors,

certain documentation to the Commissioner, as specified by the Commissioner in rule or regulation.

(vi) The assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements, pursuant to criteria set forth in rule or regulation.

(vii) The assuming insurer's supervisory authority must 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 subdivisions (6)(A)(ii) and (6)(A)(iii) of this subsection (b).

(viii) Nothing in this subdivision (b)(6)(A) precludes an assuming insurer from providing the Commissioner with information on a voluntary basis.

(B) The Commissioner shall timely create and publish a list of reciprocal jurisdictions.

(i) A list of reciprocal jurisdictions is published through the NAIC committee process. The Commissioner's list shall include any reciprocal jurisdiction as defined under subdivisions (6)(A)(i)(I) and (6)(A)(i)(II) of this subsection (b) and shall consider any other reciprocal jurisdiction included on the NAIC list. The Commissioner may approve a jurisdiction that does not appear on the NAIC list of reciprocal jurisdictions in accordance with criteria to be developed in rules or regulations adopted by the Commissioner.

1870

1871

1872

1873

1874

1875

1876

1877

1878

1879

1880

1881

1882

(ii) 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 or regulations adopted by the Commissioner, except that the Commissioner shall not remove from the list a reciprocal jurisdiction as defined under subdivisions (6)(A)(i)(I) and (6)(A)(i)(II) of this subsection (b). 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 section.

(C) The Commissioner shall timely create and publish a list of assuming insurers that have satisfied the conditions set forth in this ~~subsection~~ subdivision (b)(6) and to which cessions shall be granted credit in accordance with this ~~subsection~~ subdivision. The Commissioner may add an assuming insurer to such list if an NAIC accredited jurisdiction has added such 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 subdivision (6)(A)(iv) of this subsection (b) and complies with any additional requirements that the Commissioner may impose by rule or regulation, except to the extent that they conflict with an applicable covered agreement.

1875

1875

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

(D) If the Commissioner determines that an assuming insurer no longer meets one or more of the requirements under this ~~subsection~~ subdivision (b)(6), the Commissioner may revoke or suspend the eligibility of the assuming insurer for recognition under this ~~subsection~~ subdivision in accordance with procedures set forth in rule or regulation.

(i) While an assuming insurer's eligibility 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 assuming insurer's obligations under the contract are secured in accordance with subsection (c) of this section.

(ii) If an assuming insurer's eligibility 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 assuming insurer's obligations under the contract are secured in a form acceptable to the Commissioner and consistent with the provisions of subsection (c) of this section.

(E) 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.



(F) Nothing in this ~~subsection~~ subdivision (b)(6) shall 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 section or other applicable law ~~or, rule, or~~ regulation.

(G)(i) Credit may be taken under this subsection (b) only for reinsurance agreements entered into, amended, or renewed on or after January 1, 2021, and only with respect to losses incurred and reserves reported on or after the later of:

(I) the date on which the assuming insurer has met all eligibility requirements pursuant to ~~subdivision (6)(A) of this subsection~~ subdivision (b)(6)(A) of this section; and

(II) the effective date of the new reinsurance agreement, amendment, or renewal.

(ii) This subdivision (b)(6)(G) does not alter or impair a ceding insurer's right to take credit for reinsurance, to the extent that credit is not available under this ~~subsection~~ subdivision (b)(6), ~~as long as~~ provided the reinsurance qualifies for credit under any other applicable provision of this section.

(iii) Nothing in this ~~subsection~~ subdivision (b)(6) shall authorize an assuming insurer to withdraw or reduce the security provided under any reinsurance agreement except as permitted by the terms of the agreement.

(iv) Nothing in this ~~subsection~~ subdivision (b)(6) shall limit, or in any way alter, the capacity of parties to any reinsurance agreement to renegotiate the agreement.

(7) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of subdivision (1), (2), (3), (4), (5), or (6) of this subsection (b), but only as to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.

(8) If the assuming insurer is not licensed or accredited or certified to transact insurance or reinsurance in this State, the credit permitted by subdivisions (3) and (4) of this subsection (b) shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(A)(i) 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 such court jurisdiction, and will abide by the final decision of such court or of any appellate court in the event of an appeal.

~~(B)~~(ii) To designate the Commissioner, ~~the Secretary of State~~, 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 company.

(B) This ~~provision~~ subdivision (b)(8) 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.

(9) If the assuming insurer does not meet the requirements of subdivision (1), (2), (3), or (6) of this subsection (b), the credit permitted by subdivision (4) or (5) of this subsection (b) shall not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

(A) Notwithstanding any other provisions in the trust instrument to the contrary, if the trust fund is inadequate because it contains an amount less than the amount required by subdivisions (4)(B)–(D) of this subsection (b) 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~~ 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~~ commissioner with regulatory oversight all of the assets of the trust fund.

(B) The assets shall be distributed by and claims shall be filed with and valued by the ~~Commissioner~~ 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.

(C) If the ~~Commissioner~~ 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 U.S. ceding insurers of the grantor of the trust, the assets or part thereof shall be returned by the ~~Commissioner~~ commissioner with regulatory oversight to the trustee for distribution in accordance with the trust agreement.

(D) The grantor shall waive any right otherwise available to it under U.S. law that is inconsistent with this ~~provision~~ subdivision (b)(9).

(10) 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.

(A) The Commissioner must give the reinsurer notice and opportunity for hearing. The Commissioner may suspend or revoke a reinsurer's accreditation or certification without a hearing if:

(i) the reinsurer waives its right to hearing;

(ii) 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 subdivision (5)(F) of this subsection (b); or

(iii) the Commissioner finds that an emergency requires immediate action and a court of competent jurisdiction has not stayed the Commissioner's action.

(B) 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 subsection (c) of this section. If a reinsurer's accreditation or certification is revoked, no credit for reinsurance may 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 subdivision (5)(E) of this subsection (b) or subsection (c) of this section.

(11) Concentration risk.

(A) 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 30 days after reinsurance recoverables from any single assuming insurer or group of affiliated assuming insurers exceeds 50 percent 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.

(B) A ceding insurer shall take steps to diversify its reinsurance program. A domestic ceding insurer shall notify the Commissioner within 30 days after ceding to any single assuming insurer or group of affiliated assuming insurers more than 20 percent 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.

(c) Asset or reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of subsection (b) of this section. An asset or a reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of subsection (b) of this section shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer, provided that the Commissioner may adopt by rule or regulation pursuant to subdivision (e)(2) of this section specific additional requirements relating to or setting forth any or all of the following: the valuation of assets or reserve credits, the amount and forms of security supporting reinsurance arrangements described in subdivision (e)(2) of this section, and the circumstances pursuant to which credit will be reduced or eliminated. The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under

a reinsurance contract with such assuming insurer as collateral for the payment of obligations thereunder, if such collateral is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified U.S. financial institution, as defined in subdivision (d)(2) of this section. This security may be in the form of:

(1) ~~Cash~~ cash;

(2) ~~Securities~~ securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the Securities Valuation Office, and qualifying as admitted assets;

(3) ~~Clean~~ clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified U.S. financial institution as defined in subdivision (d)(1) of this section, which are effective ~~no~~ not later than December 31 ~~in~~ respect of the year for which filing is being made, and in the possession of, or in trust for, the ceding company on or before the filing date of its annual statement;

(4) ~~Letters~~ letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation shall, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever first occurs; or

~~(4)(5)~~ Any any other form of collateral acceptable to the Commissioner.

(d) Qualified U.S. financial institutions.

(1) ~~For purposes of~~ As used in subdivision (c)(3) of this section, a “qualified U.S. financial institution” means an institution that:

(A) is organized or, in the case of a U.S. office of a foreign banking organization, licensed under the laws of the United States or any state thereof;

(B) is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies; and

(C) has been determined by either the Commissioner or the Securities Valuation Office of the National Association of Insurance Commissioners to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the Commissioner.

(2) A “qualified U.S. financial institution” means, for purposes of those provisions of this section specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that is:

(A) organized or, in the case of a U.S. branch or agency office of a foreign banking organization, licensed under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers; and

(B) regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies.

~~(e) Notwithstanding the provisions of this subsection to the contrary, the Commissioner shall allow credit for reinsurance ceded and assumed to a pooling arrangement that has the following characteristics:~~

~~(1) the majority of the pooling members are licensed to transact business in this State, or are licensed in a state that is accredited with the National Association of Insurance Commissioners, or are approved by the Commissioner;~~

~~(2) the members of the pool are subject to joint and several liability;~~

~~(3) all members of the pool agree to file with the Commissioner, annually on or before March 1, a copy of the member's annual statement filed with the insurance department of its state of domicile; and~~

~~(4) the manager of the pool files with the Commissioner, annually on or before December 1, a request to be exempted from the provisions of subdivisions (b)(1) through (4) of this section.~~

~~(f) Rules and regulations.~~

~~(1) The Commissioner may adopt rules or regulations implementing the provisions of this section.~~

~~(2)(A) The Commissioner may adopt rules or regulations applicable to reinsurance agreements. Such rules or regulations may apply only to reinsurance relating to:~~

~~(i) life insurance policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits;~~

(ii) universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period;

(iii) variable annuities with guaranteed death or living benefits;

(iv) long-term care insurance policies; or

(v) such other life and health insurance and annuity products as to which the NAIC adopts model regulatory requirements with respect to credit for reinsurance.

(B) A rule or regulation adopted pursuant to subdivision (2)(A)(i) or (ii) of this subsection (e) may apply to any treaty that contains:

(i) policies issued on or after January 1, 2015; or

(ii) 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; or both.

(3) A rule or regulation adopted pursuant to subdivision (2) of this subsection (e) 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 rule or regulation adopted pursuant to subdivision (2) of this subsection (e) shall not apply to cessions to an assuming insurer that:

(A) meets the conditions set forth in subdivision (b)(6) of this section;

(B) is certified in this State; or

(C) maintains at least \$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:

(i) licensed in at least 26 states; or

(ii) licensed in at least 10 states and licensed or accredited in a total of at least 35 states.

(5) The authority to adopt rules or regulations pursuant to subdivision (2) of this subsection (e) does not limit the Commissioner's general authority to adopt rules or regulations pursuant to subdivision (1) of this subsection (e).

~~(g)~~(f) Reinsurance agreements affected. This section shall apply to all cessions after the effective date of this section under reinsurance agreements that have an inception, anniversary, or renewal date not less than six months after the effective date of this section.

Sec. 23a. DEPARTMENT OF FINANCIAL REGULATION; BROADBAND
CONSTRUCTION; INSURANCE; GUIDANCE

(a) The availability of significant federal funds coupled with the State's commitment to achieving universal broadband connectivity has resulted in an unprecedented period of broadband construction in our State. It is the purpose of this section to provide educational risk management guidance to broadband service providers engaged in broadband construction projects to reduce the risk of harm or injury to Vermonters, generally. It is not the intent of this section to establish new or expand existing rights, obligations, or remedies. Broadband service providers should consult with insurance professionals and legal counsel when developing specific contractual terms and conditions.

(b) The Department of Financial Regulation, in consultation with the Public Utility Commission, shall develop a guidance document that includes recommendations related to standard insurance requirements and measures that ensure adequate coverage is in force for the duration of broadband construction projects. The guidance shall be posted on a website maintained by the Public Utility Commission and shall be distributed by the Commission to every broadband service provider that registers with the State as well as to the Vermont Community Broadband Board for distribution to recipients of State broadband construction grants.

(c) The Department of Financial Regulation may include in the guidance any recommendations for mitigating liability risk through safe cleanup

practices on a broadband construction worksite and may include notification of the requirements pertaining to the proper disposal of solid waste as established in 24 V.S.A. § 2201.

(d) The guidance required by this section shall be published on or before September 15, 2022.

* * * Effective Dates * * *

Sec. 24. EFFECTIVE DATES

This act shall take effect on passage except that Secs. 10 and 11 (travel insurance) shall take effect 90 days after enactment.

Date Governor signed bill: May 27, 2022

The Vermont Statutes Online

Title 8 : Banking And Insurance

Chapter 101 : Insurance Companies Generally

Subchapter 010 : Reinsurance Of Risks

(Cite as: 8 V.S.A. § 3634a)

§ 3634a. Credit for reinsurance

(a) It is the purpose of this section to protect the interest of insureds, claimants, ceding insurers, assuming insurers, and the public generally. The General Assembly hereby declares its intent is to ensure adequate regulation of insurers and reinsurers and adequate protection for those to whom they owe obligations. In furtherance of that State interest, the General Assembly hereby provides a mandate that upon the insolvency of a non-U.S insurer or reinsurer that provides security to fund its U.S. obligations in accordance with this section, the assets representing the security shall be maintained in the United States and claims shall be filed with and valued by the state insurance Commissioner with regulatory oversight, and the assets shall be distributed in accordance with the insurance laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic U.S. insurance companies. The General Assembly declares that the matters contained in this section are fundamental to the business of insurance in accordance with 15 U.S.C. §§ 1011-1012.

(b) Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of subdivision (1), (2), (3), (4), (5), (6), or (7) of this subsection. Credit shall be allowed under subdivision (1), (2), or (3) of this subsection only with respect 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 U.S. 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 subdivision (3) or (4) of this subsection only if the applicable requirements of subdivision (8) of this subsection have been satisfied.

(1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is licensed to transact insurance or reinsurance in this State.

(2) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is accredited by the Commissioner as a reinsurer in this State. An accredited reinsurer is one that:

(A) files with the Commissioner evidence of its submission to this State's jurisdiction;

(B) submits to this State's authority to examine its books and records;

(C) is licensed to transact insurance or reinsurance in at least one state or, in the case of a U.S. branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;

(D) files with the Commissioner on or before March 1 of each year a copy of its annual statement filed with the insurance department of its state of domicile and files on or before June 1 of each year a copy of its most recent audited financial statement;

(E) files with the Commissioner its charter, bylaws, and any other material required by the Commissioner;

(F) pays an initial fee of \$500.00 and thereafter an annual fee of \$200.00 on or before March 1 of each year; and

(G) demonstrates to the satisfaction of the 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, provided that at the time of its application it:

(i) maintains a surplus for policyholders that is not less than \$20,000,000.00 and whose accreditation has not been denied by the Commissioner within 90 days of its submission; or

(ii) maintains a surplus for policyholders in an amount less than \$20,000,000.00 and whose accreditation has been approved the Commissioner.

(H) Credit for reinsurance ceded to a certified reinsurer shall be permitted only for reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer by the Commissioner.

(3)(A) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is domiciled and licensed in, or in the case of a U.S. 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 U.S. branch of an alien assuming insurer:

(i) maintains a surplus for policyholders in an amount not less than \$20,000,000.00; and

(ii) submits to the authority of this State to examine its books and records.

(B) The requirement of subdivision (3)(A)(i) of this subsection does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

First main paragraph of text, containing several lines of faint, illegible characters.

Second main paragraph of text, continuing the faint, illegible content.

Third main paragraph of text, with faint, illegible characters.

Fourth main paragraph of text, containing faint, illegible text.

Fifth main paragraph of text, with faint, illegible characters.

Sixth main paragraph of text, containing faint, illegible content.

(4)(A) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which maintains a trust fund in a qualified U.S. financial institution, as defined in subdivision (d)(2) of this section, for the payment of the valid claims of its U.S. policyholders and ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the Commissioner information required by the Commissioner and substantially the same as that required to be reported on the National Association of Insurance Commissioners' Annual Statement form by licensed insurers to enable the Commissioner to determine the sufficiency of the trust fund. On or before February 28 of each year, the trustees of the trust shall report to the Commissioner in writing setting forth 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 next following December 31. A trust and trust instrument maintained pursuant to this subdivision shall:

- (i) be established in a form and upon such terms approved by the Commissioner;
- (ii) provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States;
- (iii) vest legal title to its assets in the trustees of the trust for its U.S. policyholders and ceding insurers, their assigns and successors in interest;
- (iv) be subject to examination as determined by the Commissioner;
- (v) remain in effect for as long as the assuming insurer shall have outstanding obligations due under the reinsurance agreements subject to the trust; and
- (vi) be filed with the Commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled.

(B) In the case of a single assuming insurer, the trust shall consist of a trustee account representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, the assuming insurer shall maintain a trustee surplus of not less than \$20,000,000.00, except at any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the Commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trustee surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of U.S. ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including when applicable the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trustee surplus may not be reduced to an amount less than 30 percent of the assuming insurer's liabilities

The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry should be supported by a valid receipt or invoice. This ensures transparency and allows for easy verification of the data. The second section covers the process of reconciling accounts, highlighting the need to compare the company's internal records with the bank statements. Any discrepancies should be investigated immediately to prevent errors from accumulating. The third part of the document addresses the issue of budgeting and financial forecasting. It suggests that a detailed budget should be prepared at the beginning of each fiscal year, and that regular reviews should be conducted to assess the company's financial health. The final section discusses the importance of staying up-to-date with changes in tax laws and regulations. It advises that the company should consult with a professional accountant to ensure full compliance with all applicable laws. In conclusion, the document stresses that a strong financial foundation is essential for the long-term success of any business. By following these guidelines, the company can ensure that its financial records are accurate, reliable, and compliant with all relevant regulations.

attributable to reinsurance ceded by U.S. ceding insurers covered by the trust.

(C) In the case of a group including incorporated and individual unincorporated underwriters, the trust shall consist of a trustee account representing the group's liabilities attributable to business written in the United States and, in addition, the group shall maintain a trustee surplus of which \$100,000,000.00 shall be held jointly for the benefit of U.S. ceding insurers of any member of the group; the incorporated members of the group shall not engage in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members; and the group shall make available to the Commissioner an annual certification of the solvency of each underwriter by the group's domiciliary regulator and its independent public accountants.

(D) In the case of a group of incorporated insurers under common administration which complies with the filing requirements contained in subdivision (b)(2) of this section and which has continuously transacted an insurance business outside the United States for at least three years immediately prior to making application for accreditation, and submits to this State's authority to examine its books and records and bears the expense of the examination, and which has aggregate policyholders' surplus of \$10,000,000,000.00, the trust shall be in an amount equal to the group's several liabilities attributable to business ceded by U.S. ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of such group, plus the group shall maintain a joint trustee surplus of which \$100,000,000.00 shall be held jointly for the benefit of U.S. ceding insurers of any member of the group as additional security for any such liabilities, and each member of the group shall make available to the Commissioner an annual certification of the member's solvency by the member's domiciliary regulator and its independent public accountant.

(5) 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 subdivision.

(A) In order to be eligible for certification, the assuming insurer shall:

(i) be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the Commissioner under subdivision (C) of this subdivision (5);

(ii) maintain minimum capital and surplus, or its equivalent, in an amount to be determined by the Commissioner by rule;

(iii) maintain financial strength ratings from two or more rating agencies deemed acceptable by the Commissioner by rule;

(iv) 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 100

percent of the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers if it resists enforcement of a final U.S. judgment;

(v) 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

(vi) the assuming insurer must satisfy any other requirements for certification deemed relevant by the Commissioner.

(B) An Association, including incorporated and individual unincorporated underwriters, may be a certified reinsurer. In order to be eligible for certification, in addition to satisfying the requirements of subdivision (A) of this subdivision (5):

(i) 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.

(ii) 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.

(iii) Within 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.

(C) 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.

(i) In order to determine whether the domiciliary jurisdiction of a non-U.S. 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 extent of reciprocal recognition afforded by the non-U.S. 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 may not be recognized as a qualified jurisdiction if the Commissioner has determined that the jurisdiction does not adequately and promptly enforce final U.S. judgments and arbitration awards. Additional factors may be considered in the discretion of the

Dear Mother

I received your letter of the 10th and was glad to hear from you. I am well and hope these few lines will find you the same.

I have not much news to write at present. Everything is quiet here. I am still in the same place.

I have not much news to write at present. Everything is quiet here. I am still in the same place.

I have not much news to write at present. Everything is quiet here. I am still in the same place.

I have not much news to write at present. Everything is quiet here. I am still in the same place.

I have not much news to write at present. Everything is quiet here. I am still in the same place.

I have not much news to write at present. Everything is quiet here. I am still in the same place.

I have not much news to write at present. Everything is quiet here. I am still in the same place.

I have not much news to write at present. Everything is quiet here. I am still in the same place.

Commissioner.

(ii) A list of qualified jurisdictions shall be published through the 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 by rule.

(iii) U.S. jurisdictions that meet the requirement for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions.

(iv) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the Commissioner has the discretion to suspend the reinsurer's certification indefinitely, in lieu of revocation.

(D) 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 by rule. The Commissioner shall publish a list of all certified reinsurers and their ratings.

(E) A certified reinsurer shall secure obligations assumed from U.S. ceding insurers under this subsection at a level consistent with its rating, as specified in rules adopted by the Commissioner.

(i) 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 subsection (c) of this section or in a multibeneficiary trust in accordance with subdivision (4) of this subsection, except as otherwise provided in this subdivision.

(ii) If a certified reinsurer maintains a trust to fully secure its obligations subject to subdivision (4) of this subsection 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 U.S. jurisdictions and for its obligations subject to subdivision (4) of this subsection. It shall be a condition to the grant of certification under this subdivision (5) 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.

(iii) The minimum trusted surplus requirements provided in subdivision (4) of this subsection 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 trusteed surplus of \$10,000,000.00.

(iv) 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 has the discretion to 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.

(v) For purposes of this subdivision (5), a certified reinsurer whose certification has been terminated for any reason shall be treated as a certified reinsurer required to secure 100 percent of its obligations.

(I) As used in this subdivision (5), the term "terminated" refers to revocation, suspension, voluntary surrender, and inactive status.

(II) If the Commissioner continues to assign a higher rating as permitted by other provisions of this section, this requirement does not apply to a certified reinsurer in inactive status or to a reinsurer whose certification has been suspended.

(F) If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the Commissioner has the discretion to defer to that jurisdiction's certification and has the discretion to defer to the rating assigned by that jurisdiction, and such assuming insurer shall be considered to be a certified reinsurer in this State.

(G) 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.

(6)(A) Credit shall be allowed when the reinsurance is ceded to an assuming insurer meeting each of the conditions set forth below:

(i) The assuming insurer shall have its head office or be domiciled in, as applicable, and be licensed in a reciprocal jurisdiction. As used in this section, "reciprocal jurisdiction" means a jurisdiction that meets one of the following:

(I) a non-U.S. 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 European Union, is a member state of the European Union. As used in this subsection, a "covered agreement" means an agreement entered into pursuant to Dodd-Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C. §§ 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;

(II) a U.S. jurisdiction that meets the requirements for accreditation under the NAIC financial standards and accreditation program; or

(III) a qualified jurisdiction, as determined by the Commissioner pursuant to subdivision (5)(C) of this subsection, that is not otherwise described in subdivision (6)(A)(i)(I) or (6)(A)(i)(II) of this subsection and that meets certain additional requirements, consistent with the terms and conditions of in-force covered agreements, as specified by the Commissioner in rule.

(ii) The assuming insurer must 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 rule. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it must 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 rule.

(iii) The assuming insurer must have and maintain, on an ongoing basis, a minimum solvency or capital ratio, as applicable, that will be set forth in rule. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it must 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, as applicable, and is also licensed.

(iv) The assuming insurer must agree and provide adequate assurance to the Commissioner, in a form specified in rule by the Commissioner, of the following:

(I) The assuming insurer must provide prompt written notice and explanation to the Commissioner if it falls below the minimum requirements set forth in subdivision (6)(A)(ii) or (6)(A)(iii) of this subsection, or if any regulatory action is taken against it for serious noncompliance with applicable law.

(II) The assuming insurer must 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 subsection shall 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.

(III) The assuming insurer must 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.

First paragraph of faint, illegible text.

Second paragraph of faint, illegible text.

Third paragraph of faint, illegible text.

Fourth paragraph of faint, illegible text.

Fifth paragraph of faint, illegible text.

Sixth paragraph of faint, illegible text.

(IV) Each reinsurance agreement must include a provision requiring the assuming insurer to provide security in an amount equal to 100 percent of the assuming insurer's liabilities 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.

(V) The assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement that involves this State's ceding insurers, and agree to notify the ceding insurer and the Commissioner and to provide security in an amount equal to 100 percent of the assuming insurer's liabilities to the ceding insurer, should the assuming insurer enter into such a solvent scheme of arrangement. Such security shall be in a form consistent with the provisions of subdivision (b)(5) and subsection (c) of this section and as specified by the Commissioner in rule.

(v) The assuming insurer or its legal successor must provide, if requested by the Commissioner, on behalf of itself and any legal predecessors, certain documentation to the Commissioner, as specified by the Commissioner in rule.

(vi) The assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements, pursuant to criteria set forth in rule.

(vii) The assuming insurer's supervisory authority must 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 subdivisions (6)(A)(ii) and (6)(A)(iii) of this subsection.

(viii) Nothing in this subdivision (b)(6)(A) precludes an assuming insurer from providing the Commissioner with information on a voluntary basis.

(B) The Commissioner shall timely create and publish a list of reciprocal jurisdictions.

(i) A list of reciprocal jurisdictions is published through the NAIC committee process. The Commissioner's list shall include any reciprocal jurisdiction as defined under subdivisions (6)(A)(i)(I) and (6)(A)(i)(II) of this subsection and shall consider any other reciprocal jurisdiction included on the NAIC list. The Commissioner may approve a jurisdiction that does not appear on the NAIC list of reciprocal jurisdictions in accordance with criteria to be developed in rules adopted by the Commissioner.

(ii) 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 adopted by the Commissioner, except that the Commissioner shall not remove from the list a reciprocal

jurisdiction as defined under subdivisions (6)(A)(i)(I) and (6)(A)(i)(II) 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 section.

(C) 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 an NAIC accredited jurisdiction has added such 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 subdivision (6)(A)(iv) of this subsection and complies with any additional requirements that the Commissioner may impose by rule, except to the extent that they conflict with an applicable covered agreement.

(D) 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 rule.

(i) While an assuming insurer's eligibility 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 assuming insurer's obligations under the contract are secured in accordance with subsection (c) of this section.

(ii) If an assuming insurer's eligibility 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 assuming insurer's obligations under the contract are secured in a form acceptable to the Commissioner and consistent with the provisions of subsection (c) of this section.

(E) 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.

(F) Nothing in this subsection shall 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 section or other applicable law or rule.

(G)(i) Credit may be taken under this subsection only for reinsurance agreements entered into, amended, or renewed on or after January 1, 2021, and only with respect to losses incurred and reserves reported on or after the later of:

(I) the date on which the assuming insurer has met all eligibility requirements pursuant to subdivision (6)(A) of this subsection; and

(II) the effective date of the new reinsurance agreement, amendment, or renewal.

(ii) This subdivision (b)(6)(G) does not alter or impair a ceding insurer's right 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 section.

(iii) Nothing in this subsection shall authorize an assuming insurer to withdraw or reduce the security provided under any reinsurance agreement except as permitted by the terms of the agreement.

(iv) Nothing in this subsection shall limit, or in any way alter, the capacity of parties to any reinsurance agreement to renegotiate the agreement.

(7) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of subdivision (1), (2), (3), (4), (5), or (6) of this subsection, but only as to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.

(8) If the assuming insurer is not licensed or accredited or certified to transact insurance or reinsurance in this State, the credit permitted by subdivisions (3) and (4) of this subsection shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(A) 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 such court jurisdiction, and will abide by the final decision of such court or of any appellate court in the event of an appeal.

(B) To designate the Commissioner, the Secretary of State, 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 company. This provision 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.

(9) If the assuming insurer does not meet the requirements of subdivision (1), (2), (3), or (6) of this subsection, the credit permitted by subdivision (4) or (5) of this subsection shall not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

(A) Notwithstanding any other provisions in the trust instrument to the contrary, if the trust fund is inadequate because it contains an amount less than the amount required by subdivisions (4)(B)-(D) of this subsection 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.

(B) 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.

(C) 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 U.S. 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.

(D) The grantor shall waive any right otherwise available to it under U.S. law that is inconsistent with this provision.

(10) 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.

(A) The Commissioner must give the reinsurer notice and opportunity for hearing. The Commissioner may suspend or revoke a reinsurer's accreditation or certification without a hearing if:

(i) the reinsurer waives its right to hearing;

(ii) 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 subdivision (5)(F) of this subsection; or

(iii) the Commissioner finds that an emergency requires immediate action and a court of competent jurisdiction has not stayed the Commissioner's action.

(B) 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 subsection (c) of this section. If a reinsurer's accreditation or certification is revoked, no credit for reinsurance may 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 subdivision (5)(E) of this subsection or subsection (c) of this section.

(11) Concentration risk.

(A) 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 30 days after reinsurance recoverables from any single assuming insurer or group of affiliated assuming insurers exceeds 50 percent 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.

(B) A ceding insurer shall take steps to diversify its reinsurance program. A domestic ceding insurer shall notify the Commissioner within 30 days after ceding to any single assuming insurer or group of affiliated assuming insurers more than 20 percent 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.

(c) An asset or a reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of subsection (b) of this section shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer. The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with such assuming insurer as collateral for the payment of obligations thereunder, if such collateral is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified U.S. financial institution, as defined in subdivision (d)(2) of this section. This security may be in the form of:

(1) Cash.

(2) Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners and qualifying as admitted assets.

(3) Clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified U.S. financial institution as defined in subdivision (d)(1) of this section, which are effective no later than December 31 in respect of the year for which filing is being made and in the possession of the ceding company on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation shall, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal,

modification, or amendment, whichever first occurs.

(4) Any other form of collateral acceptable to the Commissioner.

(d)(1) For purposes of subdivision (c)(3) of this section, a "qualified U.S. financial institution" means an institution that:

(A) is organized or, in the case of a U.S. office of a foreign banking organization, licensed under the laws of the United States or any state thereof;

(B) is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies; and

(C) has been determined by either the Commissioner or the Securities Valuation Office of the National Association of Insurance Commissioners to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the Commissioner.

(2) A "qualified U.S. financial institution" means, for purposes of those provisions of this section specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that is:

(A) organized or, in the case of a U.S. branch or agency office of a foreign banking organization, licensed under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers; and

(B) regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies.

(e) Notwithstanding the provisions of this subsection to the contrary, the Commissioner shall allow credit for reinsurance ceded and assumed to a pooling arrangement that has the following characteristics:

(1) the majority of the pooling members are licensed to transact business in this State, or are licensed in a state that is accredited with the National Association of Insurance Commissioners, or are approved by the Commissioner;

(2) the members of the pool are subject to joint and several liability;

(3) all members of the pool agree to file with the Commissioner, annually on or before March 1, a copy of the member's annual statement filed with the insurance department of its state of domicile; and

(4) the manager of the pool files with the Commissioner, annually on or before December 1, a request to be exempted from the provisions of subdivisions (b)(1) through (4) of this section.

(f) The Commissioner may adopt rules implementing the provisions of this section.

Dear Sir,
I have the honor to acknowledge the receipt of your letter of the 10th inst. in relation to the above matter.

I am sorry to hear that you are unable to attend the meeting on the 15th inst. I will do my best to accommodate your situation.

I am sure that you will understand the necessity of your presence at this important meeting.

I am, Sir, very respectfully,
Your obedient servant,
John Doe

Enclosed for you are the documents mentioned in your letter of the 10th inst.

I am, Sir, very respectfully,
Your obedient servant,
John Doe

I am, Sir, very respectfully,
Your obedient servant,
John Doe

I am, Sir, very respectfully,
Your obedient servant,
John Doe

I am, Sir, very respectfully,
Your obedient servant,
John Doe

(g) This section shall apply to all cessions after the effective date of this section under reinsurance agreements that have an inception, anniversary, or renewal date not less than six months after the effective date of this section. (Added 1991, No. 249 (Adj. Sess.), § 13; amended 1993, No. 12, § 6, eff. April 26, 1993; 1993, No. 235 (Adj. Sess.), § 1, eff. June 21, 1994; 1995, No. 180 (Adj. Sess.), § 38(a); 2007, No. 49, § 3; 2011, No. 78 (Adj. Sess.), § 2, eff. April 2, 2012; 2013, No. 121 (Adj. Sess.), § 1, eff. May 9, 2014; 2019, No. 103 (Adj. Sess.), § 12, eff. Jan. 1, 2021.)

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

Title 8 : Banking And Insurance

Chapter 001 : Policy And Administration

(Cite as: 8 V.S.A. § 15)

§ 15. Rules, orders, and administrative interpretations

(a) In addition to other powers conferred by this title and 18 V.S.A. chapter 221, the Commissioner may adopt rules and issue orders as shall be authorized by or necessary to the administration of this title and of 18 V.S.A. chapter 221, and to carry out the purposes of such titles.

(b) The Commissioner may, whether or not requested by any person, issue written advisory interpretations, advisory opinions, non-objection letters, and no action letters under this title and regulations issued under it, including interpretations of the applicability of any provision of this title and regulations issued under it. Such interpretations shall be presumed to be correct unless found to be clearly erroneous by a court of competent jurisdiction. The Commissioner may make public all or a portion of an advisory interpretation.

(c) The Commissioner may waive the requirements of 15 V.S.A. § 795(b) as the Commissioner deems necessary to permit the Department to participate in any national licensing or registration systems with respect to any person or entity subject to the jurisdiction of the Commissioner under this title, Title 9, or 18 V.S.A. chapter 221.

(d) Upon written request by the Office of Child Support and after notice and opportunity for hearing to the licensee as required under any applicable provision of law, the Commissioner may revoke or suspend any license or other authority to conduct a trade or business (including a license to practice a profession) issued to any person under this title, 9 V.S.A. chapter 150, and 18 V.S.A. chapter 221, if the Commissioner finds that the applicant or licensee is subject to a child support order and is not in good standing with respect to that order or is not in full compliance with a plan to pay any and all child support payable under a support order as of the date the application is filed or as of the date of the commencement of revocation proceedings, as applicable. For purposes of such findings, the written representation to that effect by the Office of Child Support to the Commissioner shall constitute prima facie evidence. The Office of Child Support shall have the right to intervene in any hearing conducted with respect to such license revocation or suspension. Any findings made by the Commissioner based solely upon the written representation with respect to that license revocation or suspension shall be made only for the purposes of that proceeding and shall not be relevant to or

The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry should be supported by a valid receipt or invoice. This ensures transparency and allows for easy verification of the data.

Furthermore, it is noted that the records should be kept in a secure and accessible format. Regular backups are recommended to prevent data loss in the event of a system failure or disaster.

In addition, the document highlights the need for consistent data entry. Standardized formats and codes should be used throughout the system to avoid confusion and errors. Training for staff on proper data entry procedures is essential for maintaining the integrity of the information.

The second part of the document focuses on the analysis of the collected data. It suggests using various tools and techniques to identify trends, patterns, and anomalies. This analysis is crucial for making informed decisions and optimizing operations.

The document also addresses the issue of data security. It stresses the importance of implementing robust security measures to protect sensitive information from unauthorized access, theft, or corruption. This includes the use of strong passwords, encryption, and access controls.

Finally, it mentions the importance of regular audits and reviews. These checks help to ensure that the data remains accurate and that the system is functioning as intended. Any discrepancies should be investigated and corrected promptly.

The document concludes by reiterating the significance of data management in today's business environment. It encourages organizations to invest in the necessary resources and expertise to ensure their data is reliable, secure, and actionable.

By following the guidelines outlined in this document, organizations can effectively manage their data and gain valuable insights that drive their success.

The following table provides a summary of the key points discussed in the document. It serves as a quick reference for anyone involved in data management.

The document is intended to provide a comprehensive overview of data management best practices. It is not meant to replace specific technical manuals or legal advice.

introduced in any other proceeding at law, except for any appeal from that license revocation or suspension. Any license or certificate of authority suspended or revoked under this section shall not be reissued or renewed until the Department receives a certificate issued by the Office of Child Support that the licensee is in good standing with respect to a child support order or is in full compliance with a plan to pay any and all child support payable under a support order. (Added 1999, No. 153 (Adj. Sess.), § 1, eff. Jan. 1, 2001; amended 2009, No. 42, § 33a; 2013, No. 73, § 58, eff. June 5, 2013; 2015, No. 63, § 3, eff. June 17, 2015; 2019, No. 20, § 106.)

The first part of the paper is devoted to a general discussion of the problem. It is shown that the problem is equivalent to the problem of finding a function $f(x)$ which satisfies the conditions

$$f(x) = \int_0^x f(t) dt + g(x)$$

where $g(x)$ is a given function. It is shown that the function $f(x)$ is uniquely determined by the conditions

$$f(0) = g(0)$$

and

$$f'(x) = g'(x)$$

The second part of the paper is devoted to a detailed study of the function $f(x)$. It is shown that the function $f(x)$ is analytic in the neighborhood of the origin and that its Taylor series is

$$f(x) = g(0) + g'(0)x + \frac{g''(0)}{2}x^2 + \dots$$

It is also shown that the function $f(x)$ is bounded in the neighborhood of the origin and that it is continuous there.



Proposed Rules Postings

A Service of the Office of the Secretary of State

- [Vermont.gov](#)
- [Feedback](#)
- [SOS Website](#)
- [APA Site](#)
- [Code of Vermont Rules](#)
- [Recent](#)
- [Search Rules](#)
- [Calendar](#)
- [Subscribe](#)
- [APA Contact Info](#)

Search Rules

Deadline For Public Comment

Deadline: Aug 05, 2022

Please submit comments to the agency or primary contact person listed below, before the deadline.

Rule Details

Rule Number:	22P012
Title:	Term and Universal Life Insurance Reserve Financing (Reg. 22-017-I).
Type:	Standard
Status:	Proposed
Agency:	Department of Financial Regulation
Legal Authority:	Act No. 139 of 2022, § 23 (codified as 8 V.S.A. § 3634a(e)); and 8 V.S.A. § 15(a).
Summary:	<p>The Department is proposing a new rule that establishes uniform standards governing reserve financing arrangements pertaining to insurers issuing term and universal life insurance products with secondary guaranties. The new rule formalizes existing Department practices and is based on the National Association of Insurance Commissioners (NAIC) Model Rule 787.</p> <p>The Department of Financial Regulation; insurers issuing term and universal life insurance products that engage in reserve financing arrangements; the captive insurance industry; large banks and reinsurers who provide secondary guaranties for such transactions. The proposed rule exclusively regulates financial transactions utilized by large insurers and does not impact consumer policies. The rule implements guidelines already in effect in Vermont. It will not affect the price of insurance because the relevant financing transactions take place at the insurer level and do not impact the contract between consumers and the insurer. In states that were not already utilizing similar guidelines, implementation of this rule could provide additional assurances to consumers that appropriate assets will be available to pay future claims. Vermont implemented these guidelines in 2015, therefore there will be no impact on consumers.</p>
Persons Affected:	<p>The proposed rule does not alter Vermont's current process but codifies existing actuarial guidelines that were already being used in Vermont. As this rule makes no changes to current practice, there is no anticipated economic impact. Adoption of the new rule is an NAIC requirement and failure to adopt the rule could have substantial, negative economic impacts on our</p>
Economic Impact:	

domestic insurance industry. The rule, which implements guidelines already in effect in Vermont, will not affect the price of insurance because the relevant financing transactions take place at the insurer level and do not impact the contract between consumers and the insurer.

Posting date: Jun 22,2022

Hearing Information

Information for Hearing # 1

Hearing date: 07-27-2022 09:30 AM [ADD TO YOUR CALENDAR](#)
Location: Virtual Hearing via Microsoft Teams
Address: Call in at +1 802-828-7667 Conference ID: 706042979#
or Visit: https://teams.microsoft.com/l/meetupjoin/193ameeting_NDE5ZDA1MzEtZTU5OC00MTVklWJmZDktZTZhMDVknjAzYjkw40thread.v2/0?
City:
State: VT
Zip: n/a
Hearing Notes:

Contact Information

Information for Contact # 1

Level: Primary
Name: Dan Raddock, Assistant General Counsel
Agency: Department of Financial Regulation
Address: 89 Main Street, Third Floor,
City: Montpelier
State: VT
Zip: 05620
Telephone: 802-371-8980
Fax:
Email: dan.raddock@vermont.gov [SEND A COMMENT](#)
Website: https://dfr.vermont.gov/about-us/legal-general-counsel/proposed-rules-and-public-comment
Address: [VIEW WEBSITE](#)

Information for Contact # 2

Level: Secondary
Name: Hillary Borcharding, Assistant General Counsel
Agency: Department of Financial Regulation
Address: 89 Main Street, Third Floor
City: Montpelier
State: VT
Zip: 05620
Telephone: 802-249-6512
Fax:
Email: Hillary.Borcharding@Vermont.gov [SEND A COMMENT](#)

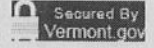
Keyword Information

Keywords:
Credit for reinsurance
Life insurance
Life insurer

Actuarial Guideline 48
Captive insurance
Captive insurer
Reserve financing

Back

[Accessibility Policy](#) | [Privacy Policy](#)
A Vermont Government Website Copyright 2022 State of Vermont



v 1.0.2

OFFICE OF THE SECRETARY OF STATE
VERMONT STATE ARCHIVES & RECORDS ADMINISTRATION (VSARA)
(802) 828-2863

TO: Seven Days Katie Hodges (khodges@sevendaysvt.com) Legals	Tel: (802) 865-1020 x110.
The Caledonian Record Julie Poutré (adv@caledonian-record.com)	Tel: 748-8121 FAX: 748-1613
Times Argus / Rutland Herald Melody Hudson (classified.ads@rutlandherald.com) Elizabeth Marrier elizabeth.marrier@rutlandherald.com)	Tel: 802-747-6121 ext 2238 FAX: 802-776-5600
The Valley News (advertising@vnews.com)	Tel: 603-298-8711 FAX: 603-298-0212
The Addison Independent (legals@addisonindependent.com)	Tel: 388-4944 FAX: 388-3100 Attn: Display Advertising
The Bennington Banner / Brattleboro Reformer Lylah Wright (lwright@reformer.com)	Tel: 254-2311 ext. 132 FAX: 447-2028 Attn: Lylah Wright
The Chronicle (ads@bartonchronicle.com)	Tel: 525-3531 FAX: 525-3200
Herald of Randolph (ads@ourherald.com)	Tel: 728-3232 FAX: 728-9275 Attn: Brandi Comette
Newport Daily Express (jlafoe@newportvermontdailyexpress.com)	Tel: 334-6568 FAX: 334-6891 Attn: Jon Lafoe
News & Citizen (mike@stowereporter.com) Irene Nuzzo (irene@newsandcitizen.com and ads@stowereporter.com removed from distribution list per Lisa Stearns.	Tel: 888-2212 FAX: 888-2173 Attn: Bryan
St. Albans Messenger Ben Letourneau (ben.letourneau@samessenger.com)	Tel: 524-9771 ext. 117 FAX: 527-1948 Attn: Ben Letourneau
The Islander (islander@vermontislander.com)	Tel: 802-372-5600 FAX: 802-372-3025
Vermont Lawyer (hunter.press.vermont@gmail.com)	Attn: Will Hunter

FROM: APA Coordinator, VSARA

Date of Fax: June 27, 2022

RE: The "Proposed State Rules " ad copy to run on

June 30, 2022

PAGES INCLUDING THIS COVER MEMO:

2

***NOTE* 8-pt font in body. 12-pt font max. for headings - single space body. Please include dashed lines where they appear in ad copy. Otherwise minimize the use of white space. Exceptions require written approval.**

If you have questions, or if the printing schedule of your paper is disrupted by holiday etc. please contact VSARA at 802-828-3700, or E-Mail sos.statutoryfilings@vermont.gov, Thanks.

PROPOSED STATE RULES

=====

By law, public notice of proposed rules must be given by publication in newspapers of record. The purpose of these notices is to give the public a chance to respond to the proposals. The public notices for administrative rules are now also available online at <https://secure.vermont.gov/SOS/rules/>. The law requires an agency to hold a public hearing on a proposed rule, if requested to do so in writing by 25 persons or an association having at least 25 members.

To make special arrangements for individuals with disabilities or special needs please call or write the contact person listed below as soon as possible.

To obtain further information concerning any scheduled hearing(s), obtain copies of proposed rule(s) or submit comments regarding proposed rule(s), please call or write the contact person listed below. You may also submit comments in writing to the Legislative Committee on Administrative Rules, State House, Montpelier, Vermont 05602 (802-828-2231).

Vital Records Rule

Vermont Proposed Rule: 22P011

AGENCY: Agency of Human Services, Department of Health

CONCISE SUMMARY: This rulemaking implements a process for individuals to amend the marker on their birth certificate to reflect the individual's gender identity. Specifically, it does the following: 1) Defines the term "non-binary" to describe the additional gender identities that may be reflected on a birth certificate. 2) Creates a process for registrants to file their Affidavit of Gender Identity with the Department.

FOR FURTHER INFORMATION, CONTACT: David Englander, Department of Health, 108 Cherry Street, Burlington, VT 05401, Tel: 802-863-7280, Fax: 802-951-1275, Email: ahs.vdhrules@vermont.gov URL: <https://www.healthvermont.gov/about-us/laws-regulations/public-comment>.

FOR COPIES: Natalie Weill, Department of Health, 108 Cherry Street, Burlington, VT 05401, Tel: 802-863-7280, Fax: 802-951-1275, Email: ahs.vdhrules@vermont.gov.

Term and Universal Life Insurance Reserve Financing (Reg. 22-017-I).

Vermont Proposed Rule: 22P012

AGENCY: Department of Financial Regulation

CONCISE SUMMARY: The Department is proposing a new rule that establishes uniform standards governing reserve financing arrangements pertaining to insurers issuing term and universal life insurance products with secondary guarantees. The new rule formalizes existing Department practices and is based on the National Association of Insurance Commissioners (NAIC) Model Rule 787.

FOR FURTHER INFORMATION, CONTACT: Dan Raddock, Assistant General Counsel, Department of Financial Regulation, 89 Main Street, Third Floor, Montpelier, VT 05620 Tel: 802-371-8980 Email: Dan.Raddock@Vermont.gov URL: <https://dfr.vermont.gov/about-us/legal-general-counsel/proposed-rules-and-public-comment>

FOR COPIES: Hillary Borcharding, Assistant General Counsel, Department of Financial Regulation, 89 Main Street, Third Floor, Montpelier, VT 05620 Tel: 802-249-6512 Email: Hillary.Borcharding@Vermont.gov.
