



LOUISIANA DEPARTMENT OF INSURANCE

JAMES J. DONELON
COMMISSIONER

July 13, 2021

The Honorable Patrick Page Cortez
President, Louisiana State Senate
P.O. Box 94183
Baton Rouge, LA 70804

ELECTRONIC TRANSMISSION
apa.senatepresident@legis.la.gov

The Honorable Clay Schexnayder
Speaker, Louisiana House of Representatives
P.O. Box 94062
Baton Rouge, LA 70804

ELECTRONIC TRANSMISSION
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The Honorable Kirk Talbot
Chairman of the Senate Insurance Committee
P.O. Box 94183
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ELECTRONIC TRANSMISSION
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The Honorable Chad Brown
Chairman of the House Insurance Committee
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RE: Summary Report – Regulation 56 – Credit for Reinsurance

Dear President Cortez, Speaker Schexnayder, Senator Talbot, and Representative Brown:

The Louisiana Department of Insurance (LDI) hereby submits the following summary report required by La. R.S. 49:968(D)(1)(b), and announces its intention to proceed to finalize Regulation 56, which was published as a Notice of Intent in the June 2021 edition of the *Louisiana Register*.

Interested persons were provided an opportunity to submit comments to the LDI on the proposed regulation. The LDI did not receive any written or oral comments by the expiration of the comment period.

Subject to legislative oversight, the LDI intends to submit the proposed amendment to Regulation 56 to the Office of the State Register for final publication in the September 2021 edition of the Louisiana Register. A copy of the summary report will be placed on the LDI's website in accordance with La. R.S. 49:968(D)(1)(c).

If you have any questions or need any additional information, please contact me at (225) 342-6621, or electronically at jennifer.land@ldi.la.gov.

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Enclosure: Notice of Intent to Amend Regulation 56 – Credit for Reinsurance

Education Development. The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed amended regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed amended regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed amended regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

Public Comments

Interested persons who wish to make comments may do so by writing to Lisa Henson, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, or by faxing comments to (225) 342-1632. Comments will be accepted through the close of business, 4:30 p.m., July 20, 2021.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Regulation 17 Reinstatement of Policies

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not result in additional costs or savings for state or local governmental units. The proposed rule repeals Regulation 17 in its entirety.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes may result in indeterminable additional costs for insurers to the extent they must amend their certificate of authority to comply with the new regulations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not affect competition or employment.

Denise Gardner
Chief of Staff
2106#055

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 56—Credit for Reinsurance (LAC 37:XIII.Chapter 35)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend Regulation 56—Credit for Reinsurance. The purpose of the amendment to Regulation 56 is to implement the amendments to the National Association of Insurance Commissioners (NAIC) Credit for Reinsurance Model Regulation (#786) which incorporates relevant provisions of the *Bilateral Agreement Between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance*. These revisions provide for the establishment of credit for reinsurance ceded by a domestic insurer to an assuming insurer that is licensed to write reinsurance by, and has its head office or is domiciled in a reciprocal jurisdiction as defined and established by Regulation 56. Furthermore, Regulation 56 (1) provides parameters for capital and surplus requirements; (2) provides for risk based capital requirements; (3) provides for the requirement of monetary security; (4) imposes the requirement of the filing of annual audited financial statements; (5) provides for the prompt payment of claims under the reinsurance agreement and criteria to determine compliance; (6) provides for the publication of a list of reciprocal jurisdictions by the Commissioner; (7) establishes eligibility requirements in order for an assuming insurer to remain on the reciprocal jurisdiction list; (8) establishes the requirement of the RJ-1 form for assuming insurers to obtain eligibility; (9) provides for the requirement of security if an assuming insurer is placed in rehabilitation, liquidation or conservation; and (10) serves to reduce reinsurance collateral requirements for certified reinsurers that are licensed and domiciled in Qualified Jurisdictions.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 35. Regulation 56—Credit for Reinsurance §3507. Credit for Reinsurance—Accredited Reinsurers

A. ...

1. file a properly executed Form AR-1 (§3527.B) as evidence of its submission to this state's jurisdiction and to the authority of the commissioner to examine its books and records;

A.2. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1808 (July 2013), amended LR 47:

§3509. Credit for Reinsurance—Reinsurers

Maintaining Trust Funds

A. - B.4.a.ii. ...

iii. file a properly executed Form AR-1 (§3527.B) as evidence of the submission to the authority of the commissioner to examine the books and records of any of its members and shall certify that any member examined will bear the expense of any such examination.

B.4.b. - E.9.b. ...

F. A specific security provided to a ceding insurer by an assuming insurer pursuant to §3513 shall be applied, until exhausted, to the payment of liabilities of the assuming insurer to the ceding insurer holding the specific security prior to, and as a condition precedent for, presentation of a claim by the ceding insurer for payment by a trustee of a trust established by the assuming insurer pursuant to this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1808 (July 2013), amended LR 47:

§3510. Credit for Reinsurance—Certified Reinsurers

A. Pursuant to R.S. 22:651(E), the commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that has been certified as a reinsurer in this state at all times for which statutory financial statement credit for reinsurance is claimed under this section. The credit allowed shall be based upon the security held by or on behalf of the ceding insurer in accordance with a rating assigned to the certified reinsurer by the commissioner. The security shall be in a form consistent with the provisions of R.S. 22:651(E) and 652 and §§3517, 3519 or 3521 of this regulation. The amount of security required in order for full credit to be allowed shall correspond with the following requirements.

A.1. - B.4.g. ...

h. for certified reinsurers not domiciled in the United States, the commissioner may consider audited financial statements, regulatory filings, and actuarial opinion (as filed with the non-United States jurisdiction supervisor, with a translation into English). Upon the initial application for certification, the commissioner will consider audited financial statements for the last two years filed with its non-United States jurisdiction supervisor;

4.i. - 5.b. ...

6. The assuming insurer must submit a properly executed Form CR-1 (§3527.C) as evidence of its submission to the jurisdiction of this state, appointment of the commissioner as an agent for service of process in this state, and agreement to provide security for 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if it resists

enforcement of a final United States judgment. The commissioner shall not certify any assuming insurer that is domiciled in a jurisdiction that the commissioner has determined does not adequately and promptly enforce final United States judgments or arbitration awards.

7. - 7.c. ...

d. annually, the most recent audited financial statements, regulatory filings, and actuarial opinion (as filed with the certified reinsurer's supervisor, with a translation into English). Upon the initial certification, audited financial statements for the last two years filed with the certified reinsurer's supervisor;

7.e. - 8.c. ...

d. Upon revocation of the certification of a certified reinsurer by the commissioner, the assuming insurer shall be required to post security in accordance with §3515 in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer. If funds continue to be held in trust in accordance with §3509, the commissioner may allow additional credit equal to the ceding insurer's pro rata share of such funds, discounted to reflect the risk of uncollectibility and anticipated expenses of trust administration. Notwithstanding the change of a certified reinsurer's rating or revocation of its certification, a domestic insurer that has ceded reinsurance to that certified reinsurer may not be denied credit for reinsurance for a period of three months for all reinsurance ceded to that certified reinsurer, unless the reinsurance is found by the commissioner to be at high risk of uncollectibility.

C. - C.4. ...

D. Recognition of Certification Issued by an NAIC Accredited Jurisdiction

1. 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 to defer to the rating assigned by that jurisdiction, if the assuming insurer submits a properly executed Form CR-1 (§3527.C) and such additional information as the commissioner requires. The assuming insurer shall be considered to be a certified reinsurer in this state.

2. - 4. ...

E. **Mandatory Funding Clause.** In addition to the clauses required under §3523, reinsurance contracts entered into or renewed under this section shall include a proper funding clause, which requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer under this section for reinsurance ceded to the certified reinsurer.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1811 (July 2013), amended LR 47:

§3511. Credit for Reinsurance—Reciprocal Jurisdictions

A. Pursuant to R.S. 22:651F, the commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that is licensed to write reinsurance by, and has its head office or is domiciled in, a reciprocal

jurisdiction, and which meets the other requirements of this regulation.

B. A *reciprocal jurisdiction* is a jurisdiction, as designated by the commissioner pursuant to §3511. D, that meets one of the following:

1. a non-United States jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and the European Union, is a member state of the European Union. For purposes of §3511, a "covered agreement" is an agreement entered into pursuant to the 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;

2. a United States jurisdiction that meets the requirements for accreditation under the NAIC financial standards and accreditation program; or

3. a qualified jurisdiction, as determined by the commissioner pursuant to R.S. 22:651E(3) and §3510.C, which is not otherwise described in paragraph (1) or (2) above and which the commissioner determines meets all of the following additional requirements:

a. provides that an insurer which has its head office or is domiciled in such qualified jurisdiction shall receive credit for reinsurance ceded to a United States-domiciled assuming insurer in the same manner as credit for reinsurance is received for reinsurance assumed by insurers domiciled in such qualified jurisdiction;

b. does not require a United States-domiciled assuming insurer to establish or maintain a local presence as a condition for entering into a reinsurance agreement with any ceding insurer subject to regulation by the non-United States jurisdiction or as a condition to allow the ceding insurer to recognize credit for such reinsurance;

c. recognizes the United States state regulatory approach to group supervision and group capital, by providing written confirmation by a competent regulatory authority, in such qualified jurisdiction, that insurers and insurance groups that are domiciled or maintain their headquarters in this state or another jurisdiction accredited by the NAIC shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by the commissioner or the commissioner of the domiciliary state and will not be subject to group supervision at the level of the worldwide parent undertaking of the insurance or reinsurance group by the qualified jurisdiction; and

d. provides written confirmation by a competent regulatory authority in such qualified jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the commissioner in accordance with a memorandum of understanding or similar document between the commissioner and such qualified jurisdiction, including but not limited to the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or

other multilateral memoranda of understanding coordinated by the NAIC.

C. Credit shall be allowed when the reinsurance is ceded from an insurer domiciled in this state to an assuming insurer meeting each of the conditions set forth below.

1. The assuming insurer must be licensed to transact reinsurance by, and have its head office or be domiciled in, a reciprocal jurisdiction.

2. The assuming insurer must have and maintain on an ongoing basis minimum capital and surplus, or its equivalent, calculated on at least an annual basis as of the preceding December 31 or at the annual date otherwise statutorily reported to the reciprocal jurisdiction, and confirmed as set forth in §3511.C.7 according to the methodology of its domiciliary jurisdiction, in the following amounts:

a. no less than \$250,000,000; or

b. if the assuming insurer is an association, including incorporated and individual unincorporated underwriters:

i. minimum capital and surplus equivalents (net of liabilities) or own funds of the equivalent of at least \$250,000,000; and

ii. a central fund containing a balance of the equivalent of at least \$250,000,000.

3. The assuming insurer must have and maintain on an ongoing basis a minimum solvency or capital ratio, as applicable, as follows:

a. if the assuming insurer has its head office or is domiciled in a reciprocal jurisdiction as defined in §3511.B.1, the ratio specified in the applicable covered agreement;

b. if the assuming insurer is domiciled in a reciprocal jurisdiction as defined in §3511.B.2 a risk-based capital (RBC) ratio of 300 percent of the authorized control level, calculated in accordance with the formula developed by the NAIC; or

c. if the assuming insurer is domiciled in a reciprocal jurisdiction as defined in §3511.B.3, after consultation with the reciprocal jurisdiction and considering any recommendations published through the NAIC committee process, such solvency or capital ratio as the commissioner determines to be an effective measure of solvency.

4. The assuming insurer must agree to and provide adequate assurance, in the form of a properly executed Form RJ-1 (§3527.D), of its agreement to the following:

a. The assuming insurer must agree to provide prompt written notice and explanation to the commissioner if it falls below the minimum requirements set forth in §3511.C.2 or §3511.C.3, or if any regulatory action is taken against it for serious noncompliance with applicable law.

b. 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.

i. The commissioner may also require that such consent be provided and included in each reinsurance agreement under the commissioner's jurisdiction.

ii. Nothing in this provision 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.

c. The assuming insurer must consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer, that have been declared enforceable in the territory where the judgment was obtained.

d. 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 estate, if applicable.

e. The assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement, which involves this state's ceding insurers, and agrees to notify the ceding insurer and the commissioner and to provide 100 percent security to the ceding insurer consistent with the terms of the scheme, should the assuming insurer enter into such a solvent scheme of arrangement. Such security shall be in a form consistent with the provisions of R.S. 22:651(E) and 652 and §§ 3517, 3519 or 3521 of this regulation. For purposes of this regulation, the term *solvent scheme of arrangement* means a foreign or alien statutory or regulatory compromise procedure subject to requisite majority creditor approval and judicial sanction in the assuming insurer's home jurisdiction either to finally commute liabilities of duly noticed classed members or creditors of a solvent debtor, or to reorganize or restructure the debts and obligations of a solvent debtor on a final basis, and which may be subject to judicial recognition and enforcement of the arrangement by a governing authority outside the ceding insurer's home jurisdiction.

f. The assuming insurer must agree in writing to meet the applicable information filing requirements as set forth in §3511.C.5.

5. The assuming insurer or its legal successor must provide, if requested by the commissioner, on behalf of itself and any legal predecessors, the following documentation to the commissioner:

a. for the two years preceding entry into the reinsurance agreement and on an annual basis thereafter, the assuming insurer's annual audited financial statements, in accordance with the applicable law of the jurisdiction of its head office or domiciliary jurisdiction, as applicable, including the external audit report;

b. for the two years preceding entry into the reinsurance agreement, the solvency and financial condition report or actuarial opinion, if filed with the assuming insurer's supervisor;

c. prior to entry into the reinsurance agreement and not more than semi-annually thereafter, an updated list of all disputed and overdue reinsurance claims outstanding for 90 days or more, regarding reinsurance assumed from ceding insurers domiciled in the United States; and

d. prior to entry into the reinsurance agreement and not more than semi-annually thereafter, information regarding the assuming insurer's assumed reinsurance by

ceding insurer, ceded reinsurance by the assuming insurer, and reinsurance recoverable on paid and unpaid losses by the assuming insurer to allow for the evaluation of the criteria set forth in §3511.C.6.

6. The assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements. The lack of prompt payment will be evidenced if any of the following criteria is met:

a. More than 15 percent of the reinsurance recoverables from the assuming insurer are overdue and in dispute as reported to the commissioner;

b. More than 15 percent of the assuming insurer's ceding insurers or reinsurers have overdue reinsurance recoverable on paid losses of 90 days or more which are not in dispute and which exceed for each ceding insurer \$100,000, or as otherwise specified in a covered agreement; or

c. The aggregate amount of reinsurance recoverable on paid losses which are not in dispute, but are overdue by 90 days or more, exceeds \$50,000,000, or as otherwise specified in a covered agreement.

7. The assuming insurer's supervisory authority must confirm to the commissioner on an annual basis that the assuming insurer complies with the requirements set forth in §3511.C.2-3.

8. Nothing in this provision precludes an assuming insurer from providing the commissioner with information on a voluntary basis.

D. The commissioner shall timely create and publish a list of reciprocal jurisdictions.

1. A list of reciprocal jurisdictions is published through the NAIC committee process. The commissioner's list shall include any reciprocal jurisdiction as defined under §3511.B.1-2, 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 as provided by applicable law, regulation, or in accordance with criteria published through the NAIC committee process.

2. The commissioner may remove a jurisdiction from the list of reciprocal jurisdictions upon a determination that the jurisdiction no longer meets one or more of the requirements of a reciprocal jurisdiction, as provided by applicable law, regulation, or in accordance with a process published through the NAIC committee process, except that the commissioner shall not remove from the list a reciprocal jurisdiction as defined under §3511.B.1-2. Upon removal of a reciprocal jurisdiction from this list credit for reinsurance ceded to an assuming insurer domiciled in that jurisdiction shall be allowed, if otherwise allowed pursuant to R.S. 22:651 et seq.

E. The commissioner shall timely create and publish a list of assuming insurers that have satisfied the conditions set forth in this section and to which cessions shall be granted credit in accordance with this section.

1. If an NAIC accredited jurisdiction has determined that the conditions set forth in §3511.C have been met, the commissioner has the discretion to defer to that jurisdiction's determination, and add such assuming insurer to the list of assuming insurers to which cessions shall be granted credit in accordance with this subsection. The commissioner may accept financial documentation filed with another NAIC

accredited jurisdiction or with the NAIC in satisfaction of the requirements of §3511.C.

2. When requesting that the commissioner defer to another NAIC accredited jurisdiction's determination, an assuming insurer must submit a properly executed Form RJ-1 (§3527.D) and additional information as the commissioner may require. A state that has received such a request will notify other states through the NAIC committee process and provide relevant information with respect to the determination of eligibility.

F. If the commissioner determines that an assuming insurer no longer meets one or more of the requirements under this section, the commissioner may revoke or suspend the eligibility of the assuming insurer for recognition under this section.

1. 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 §3515.

2. 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 §3515.

G. Before denying statement credit or imposing a requirement to post security with respect to §3511.F or adopting any similar requirement that will have substantially the same regulatory impact as security, the commissioner shall:

1. communicate with the ceding insurer, the assuming insurer, and the assuming insurer's supervisory authority that the assuming insurer no longer satisfies one of the conditions listed in §3511.C;

2. provide the assuming insurer with 30 days from the initial communication to submit a plan to remedy the defect, and 90 days from the initial communication to remedy the defect, except in exceptional circumstances in which a shorter period is necessary for policyholder and other consumer protection;

3. after the expiration of 90 days or less, as set out in §3511.G.2, if the commissioner determines that no or insufficient action was taken by the assuming insurer, the commissioner may impose any of the requirements as set out in this Subsection; and

4. provide a written explanation to the assuming insurer of any of the requirements set out in this Subsection.

H. 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 liabilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§3513. Credit for Reinsurance Required by Law [Formerly §3511]

A. Pursuant to R.S. 22:651(G), the commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of R.S. 22:651(B), (C), (D), (E) or (F) but only as to the insurance of risks located in jurisdictions where the reinsurance is required by the applicable law or regulation of that jurisdiction. As used in §3513:

Jurisdiction—state, district or territory of the United States and any lawful national government.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1815 (July 2013), amended LR 47:

§3515. Reduction from Liability for Reinsurance Ceded to an Unauthorized Assuming Insurer [Formerly §3513]

A. Pursuant to R.S. 22:652, the commissioner shall allow a reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of R.S. 22:651 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 exclusive benefit of the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations under the reinsurance contract. The security shall be 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 United States financial institution as defined in R.S. 22:653(B). This security may be in the form of any of the following:

1. cash;

2. securities listed by the Securities Valuation Office of the NAIC, including those deemed exempt from filing as defined by the purposes and procedures manual of the Securities and Valuation Office, and qualifying as admitted assets;

3. clean, irrevocable, unconditional and evergreen letters of credit issued or confirmed by a qualified United States financial institution, as defined in R.S. 22:653(A), effective no later than December 31 of the year for which filing is being made, and in the possession of, or in trust for, the ceding insurer 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; or

4. any other form of security acceptable to the commissioner.

B. An admitted asset or a reduction from liability for reinsurance ceded to an unauthorized assuming insurer pursuant to §3515.A shall be allowed only when the requirements of §3523 and the applicable portions of §§3517, 3519 or 3521 have been satisfied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1815 (July 2013), amended LR 47:

§3517. Trust Agreements Qualified under §3515

[Formerly §3515]

A. As used in §3517:

Beneficiary—the entity for whose sole benefit the trust has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named *beneficiary*, then the named *beneficiary* includes, and is limited to, the court appointed domiciliary receiver (including conservator, rehabilitator, or liquidator).

Grantor—the entity that has established a trust for the sole benefit of the beneficiary. When established in conjunction with a reinsurance agreement, the *grantor* is the unlicensed, unaccredited assuming insurer.

Obligations—as used in §3517.B.11, means:

- a. reinsured losses and allocated loss expenses paid by the ceding company, but not recovered from the assuming insurer;
- b. reserves for reinsured losses reported and outstanding;
- c. reserves for reinsured losses incurred but not reported; and
- d. reserves for allocated reinsured loss expenses and unearned premiums.

B. Required Conditions

1. The trust agreement shall be entered into between the beneficiary, the grantor and a trustee, which shall be a qualified United States financial institution as defined in R.S. 22:653(B).

2. The trust agreement shall create a trust account into which assets shall be deposited.

3. All assets in the trust account shall be held by the trustee at the trustee's office in the United States.

4. The trust agreement shall provide that:

- a. the beneficiary shall have the right to withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustee;
- b. no other statement or document is required to be presented to withdraw assets, except that the beneficiary may be required to acknowledge receipt of withdrawn assets;
- c. it is not subject to any conditions or qualifications outside of the trust agreement; and
- d. it shall not contain references to any other agreements or documents except as provided for in §3517.B.11-12.

5. The trust agreement shall be established for the sole benefit of the beneficiary.

6. The trust agreement shall require the trustee to:

- a. receive assets and hold all assets in a safe place;
- b. determine that all assets are in such form that the beneficiary, or the trustee upon direction by the beneficiary, may whenever necessary negotiate any such assets, without consent or signature from the grantor or any other person or entity;
- c. furnish to the grantor and the beneficiary a statement of all assets in the trust account upon its inception

and at intervals no less frequent than the end of each calendar quarter;

d. notify the grantor and the beneficiary within 10 days, of any deposits to or withdrawals from the trust account;

e. upon written demand of the beneficiary, immediately take any and all steps necessary to transfer absolutely and unequivocally all right, title and interest in the assets held in the trust account to the beneficiary and deliver physical custody of the assets to the beneficiary; and

f. allow no substitutions or withdrawals of assets from the trust account, except on written instructions from the beneficiary, except that the trustee may, without the consent of but with notice to the beneficiary, upon call or maturity of any trust asset, withdraw such asset upon condition that the proceeds are paid into the trust account.

7. The trust agreement shall provide that at least 30 days, but not more than 45 days, prior to termination of the trust account, written notification of termination shall be delivered by the trustee to the beneficiary.

8. The trust agreement shall be made subject to and governed by the laws of the state in which the trust is domiciled.

9. The trust agreement shall prohibit invasion of the trust corpus for the purpose of paying commission to, or reimbursing the expenses of, the trustee. In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement (as duly approved by the commissioner), to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced.

10. The trust agreement shall provide that the trustee shall be liable for its negligence, willful misconduct or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where such draw would be required shall be deemed to be negligence and/or willful misconduct.

11. Notwithstanding other provisions of this regulation, when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, where it is customary practice to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes:

a. to pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer, but not recovered from the assuming insurer, or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer;

b. to make payment to the assuming insurer of any amounts held in the trust account that exceed 102 percent of the actual amount required to fund the assuming insurer's obligations under the specific reinsurance agreement; or

c. where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance

agreement remain unliquidated and undischarged 10 days prior to the termination date, to withdraw amounts equal to the obligations and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution as defined in R.S. 22:653(B) apart from its general assets, in trust for such uses and purposes specified in §3517.B.11.a-b as may remain executory after such withdrawal and for any period after the termination date.

12. Notwithstanding other provisions of this regulation, when a trust agreement is established to meet the requirements of §3515 in conjunction with a reinsurance agreement covering life, annuities or accident and health risks, where it is customary to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes:

a. to pay or reimburse the ceding insurer for:

i. the assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of the policies; and

ii. the assuming insurer's share under the specific reinsurance agreement of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurer, under the terms and provisions of the policies reinsured under the reinsurance agreement;

b. to pay to the assuming insurer amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer; or

c. where the ceding insurer has received notification of termination of the trust and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged 10 days prior to the termination date, to withdraw amounts equal to the assuming insurer's share of liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer, and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution apart from its general assets, in trust for the uses and purposes specified in §3517.B.12.a-b as may remain executory after withdrawal and for any period after the termination date.

13. Either the reinsurance agreement or the trust agreement must stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash in United States dollars, certificates of deposit issued by a United States bank and payable in United States dollars, and investments permitted by the Louisiana Insurance Code or any combination of the above, provided investments in or issued by an entity controlling, controlled by or under common control with either the grantor or the beneficiary of the trust shall not exceed 5 percent of total investments. The agreement may further specify the types of investments to be deposited. If the reinsurance agreement covers life, annuities or accident and health risks, then the provisions required by this paragraph must be included in the reinsurance agreement.

C. Permitted Conditions

1. The trust agreement may provide that the trustee may resign upon delivery of a written notice of resignation, effective not less than 90 days after the beneficiary and grantor receive the notice and that the trustee may be removed by the grantor by delivery to the trustee and the beneficiary of a written notice of removal, effective not less than 90 days after the trustee and the beneficiary receive the notice, provided that no such resignation or removal shall be effective until a successor trustee has been duly appointed and approved by the beneficiary and the grantor and all assets in the trust have been duly transferred to the new trustee.

2. The grantor may have the full and unqualified right to vote any shares of stock in the trust account and to receive from time to time payments of any dividends or interest upon any shares of stock or obligations included in the trust account. Any interest or dividends shall be either forwarded promptly upon receipt to the grantor or deposited in a separate account established in the grantor's name.

3. The trustee may be given authority to invest, and accept substitutions of, any funds in the account, provided that no investment or substitution shall be made without prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest funds and to accept substitutions that the trustee determines are at least equal in current fair market value to the assets withdrawn and that are consistent with the restrictions in §3517.D.1.b.

4. The trust agreement may provide that the beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. Transfer may be conditioned upon the trustee receiving, prior to or simultaneously, other specified assets.

5. The trust agreement may provide that, upon termination of the trust account, all assets not previously withdrawn by the beneficiary shall, with written approval by the beneficiary, be delivered over to the grantor.

D. Additional Conditions Applicable to Reinsurance Agreements

1. A reinsurance agreement may contain provisions that:

a. require the assuming insurer to enter into a trust agreement and to establish a trust account for the benefit of the ceding insurer, and specifying what the agreement is to cover;

b. require the assuming insurer, prior to depositing assets with the trustee, to execute assignments or endorsements in blank, or to transfer legal title to the trustee of all shares, obligations or any other assets requiring assignments, in order that the ceding insurer, or the trustee upon the direction of the ceding insurer, may whenever necessary negotiate these assets without consent or signature from the assuming insurer or any other entity;

c. require that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent; and

d. stipulate that the assuming insurer and the ceding insurer agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance

agreement, and shall be utilized and applied by the ceding insurer or its successors in interest by operation of law, including without limitation any liquidator, rehabilitator, receiver or conservator of such company, without diminution because of insolvency on the part of the ceding insurer or the assuming insurer, only for the following purposes:

i. to pay or reimburse the ceding insurer for:

(a) the assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement because of cancellations of such policies;

(b) the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement; and

(c) any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer;

ii. to make payment to the assuming insurer of amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer.

2. The reinsurance agreement also may contain provisions that:

a. give the assuming insurer the right to seek approval from the ceding insurer, which shall not be unreasonably or arbitrarily withheld, to withdraw from the trust account all or any part of the trust assets and transfer those assets to the assuming insurer, provided:

i. the assuming insurer shall, at the time of withdrawal, replace the withdrawn assets with other qualified assets having a current fair market value equal to the market value of the assets withdrawn so as to maintain at all times the deposit in the required amount; or

ii. after withdrawal and transfer, the current fair market value of the trust account is no less than 102 percent of the required amount;

b. provide for the return of any amount withdrawn in excess of the actual amounts required for §3517.D.1.e and interest payments at a rate not in excess of the prime rate of interest on such amounts;

c. permit the award by any arbitration panel or court of competent jurisdiction of:

i. interest at a rate different from that provided in §3517.D.2.b;

ii. court or arbitration costs;

iii. attorney's fees; and

iv. any other reasonable expenses.

E. A trust agreement may be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with this department in compliance with the provisions of this regulation when established on or before the date of filing of the financial statement of the ceding insurer. Further, the reduction for the existence of an acceptable trust account may be up to the current fair market value of acceptable assets available to be withdrawn from the trust account at that time, but such reduction shall be no greater than the specific obligations under the reinsurance agreement that the trust account was established to secure.

F. Notwithstanding the effective date of this regulation, any trust agreement or underlying reinsurance agreement in existence prior to September 1, 2013 will continue to be acceptable until August 30, 2014, after which date the agreements will have to fully comply with this regulation for the trust agreement to be acceptable.

G. The failure of any trust agreement to specifically identify the *beneficiary* as defined in §3517.A shall not be construed to affect any actions or rights that the commissioner may take or possess pursuant to the provisions of the laws of this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1816 (July 2013), amended LR 47:

§3519. Letters of Credit Qualified under §3515 [Formerly §3517]

A. The letter of credit must be clean, irrevocable, unconditional and issued or confirmed by a qualified United States financial institution as defined in R.S. 22:653(A). The letter of credit shall contain an issue date and expiration date and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented. The letter of credit also shall indicate that it is not subject to any condition or qualifications outside of the letter of credit. In addition, the letter of credit itself shall not contain reference to any other agreements, documents or entities, except as provided in §3519.H.1. As used in §3519:

Beneficiary—the domestic insurer for whose benefit the letter of credit has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes, and is limited to, the court appointed domiciliary receiver (including conservator, rehabilitator, or liquidator).

B. The heading of the letter of credit may include a boxed section containing the name of the applicant and other appropriate notations to provide a reference for the letter of credit. The boxed section shall be clearly marked to indicate that such information is for internal identification purposes only.

C. The letter of credit shall contain a statement to the effect that the obligation of the qualified United States financial institution under the letter of credit is in no way contingent upon reimbursement with respect thereto.

D. The term of the letter of credit shall be for at least one year and shall contain an "evergreen clause" that prevents the expiration of the letter of credit without due notice from the issuer. The "evergreen clause" shall provide for a period of no less than 30 days notice prior to expiration date or nonrenewal.

E. The letter of credit shall state whether it is subject to and governed by the laws of this state or the *Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce Publication 600 (UCP 600)* or *International Standby Practices of the International Chamber of Commerce Publication 590 (ISP98)*, or any successor publication, and all drafts drawn thereunder shall be presentable at an office in the United States of a qualified United States financial institution.

F. If the letter of credit is made subject to the *Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce Publication 600 (UCP 600)* *International Standby Practices of the International Chamber of Commerce Publication 590 (ISP98)* or any successor publication, then the letter of credit shall specifically address and provide for an extension of time to draw against the letter of credit in the event that one or more of the occurrences specified in Article 36 of *Publication 600* or any other successor publication, occur.

G. If the letter of credit is issued by a financial institution authorized to issue letters of credit, other than a qualified United States financial institution as described in §3519.A, then the following additional requirements shall be met:

1. the issuing financial institution shall formally designate the confirming qualified United States financial institution as its agent for the receipt and payment of the drafts; and

2. the "evergreen clause" shall provide for 30 days notice prior to expiration date for nonrenewal.

H. Reinsurance Agreement Provisions

1. The reinsurance agreement in conjunction with which the letter of credit is obtained may contain provisions that:

a. require the assuming insurer to provide letters of credit to the ceding insurer and specify what they are to cover;

b. stipulate that the assuming insurer and ceding insurer agree that the letter of credit provided by the assuming insurer pursuant to the provisions of the reinsurance agreement may be drawn upon at any time, notwithstanding any other provisions in the agreement, and shall be utilized by the ceding insurer or its successors in interest only for one or more of the following reasons:

i. to pay or reimburse the ceding insurer for:

(a) the assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurers, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of such policies;

(b) the assuming insurer's share, under the specific reinsurance agreement, of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurers, under the terms and provisions of the policies reinsured under the reinsurance agreement; and

(c) any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer;

ii. where the letter of credit will expire without renewal or be reduced or replaced by a letter of credit for a reduced amount and where the assuming insurer's entire obligations under the reinsurance agreement remain unliquidated and undischarged 10 days prior to the termination date, to withdraw amounts equal to the assuming insurer's share of the liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer and exceed the amount of any reduced or replacement letter of credit, and deposit those amounts in a separate account in the name of the ceding insurer in a qualified United States

financial institution apart from its general assets, in trust for such uses and purposes specified in §3519.H.1.b.i as may remain after withdrawal and for any period after the termination date;

c. all of the provisions of §3519.H.1 shall be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer.

2. Nothing contained §3519.H.1 shall preclude the ceding insurer and assuming insurer from providing for:

a. an interest payment, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to §3519.H.1.b; or

b. the return of any amounts drawn down on the letters of credit in excess of the actual amounts required for the above or any amounts that are subsequently determined not to be due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1818 (July 2013), amended LR 47:

§3521. Other Security

[Formerly §3519]

A. A ceding insurer may take credit for unencumbered funds withheld by the ceding insurer in the United States subject to withdrawal solely by the ceding insurer and under its exclusive control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1819 (July 2013), amended LR 47:

§3523. Reinsurance Contract

[Formerly §3521]

A. Credit will not be granted, nor an asset or reduction from liability allowed, to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of §§3505, 3507, 3509, 3510, or 3513 or otherwise in compliance with R.S. 22:651 after the adoption of this regulation unless the reinsurance agreement includes:

1. a proper insolvency clause, which stipulates that reinsurance is payable directly to the liquidator or successor without diminution regardless of the status of the ceding company, pursuant to R.S. 22:651(I)(2);

2. a provision pursuant to R.S. 22:651(H)(1)(a)(i) whereby the assuming insurer, if an unauthorized assuming insurer, has submitted to the jurisdiction of the alternative dispute resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to give the court or panel jurisdiction, has designated an agent upon whom service of process may be effected, and has agreed to abide by the final decision of the court or panel; and

3. a proper reinsurance intermediary clause, if applicable, which stipulates that the credit risk for the intermediary is carried by the assuming insurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1819 (July 2013), amended LR 47:

§3525. Agreements Requiring Approval
[Formerly §3523]

A. The following kinds of reinsurance agreements shall not be entered into by any domestic insurer unless they are first submitted to the commissioner of insurance for his written approval, who shall approve the same if the terms thereof do not injuriously affect the rights of policyholders of any of the insurers parties thereto:

1. agreements of reinsurance of any life insurer other than agreements made in the ordinary course of business covering reinsurance of individual lives or joint lives under reinsurance agreements relating to current business; or

2. agreements whereby any insurer, other than a life insurer, cedes any existing outstanding reserves to an insurer not authorized to transact business in this state, or cedes to any insurer or insurers at one time, or during a period of six consecutive months more than 20 percent of the total amount of its outstanding reserves, not including in either case premiums ceded by agreements made in the ordinary course of business covering the reinsurance of individual risks under reinsurance relating to current business.

B. If the commissioner of insurance refuses to approve any such agreement submitted for his approval, he shall grant the insurer a hearing upon request.

C. In addition to the requirements of §3525.A, the commissioner may require that any reinsurance agreement must be approved, in writing, by the commissioner when the agreement is between a Louisiana domestic insurer and a nonadmitted or unauthorized assuming insurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1819 (July 2013), amended LR 47:

§3527. Contracts Affected
[Formerly §3525]

A. All new and renewal reinsurance transactions entered into after December 31, 2013 shall conform to the requirements of the Act and this regulation if credit is to be given to the ceding insurer for such reinsurance.

B. Form AR-1

FORM AR-1
CERTIFICATE OF ASSUMING INSURER

I _____, _____
 (name of officer) (title of officer)
 of
 _____,
 ("Assuming Insurer"), the (name of assuming insurer)

assuming insurer under a reinsurance agreement with one or more insurers domiciled in Louisiana, hereby certify that Assuming Insurer:

1. Submits to the jurisdiction of any court of competent jurisdiction in Louisiana for the adjudication of any issues arising out of the reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement.

2. Designates the Commissioner of Insurance of Louisiana as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding arising out of the reinsurance agreement instituted by or on behalf of the ceding insurer.

3. Submits to the authority of the Commissioner of Insurance of Louisiana to examine its books and records and agrees to bear the expense of any such examination.

4. Submits with this form a current list of insurers domiciled in Louisiana reinsured by Assuming Insurer and undertakes to submit additions to or deletions from the list to the Insurance Commissioner at least once per calendar quarter.

Dated: _____
 (name of assuming insurer)
 BY: _____
 (name of officer) (title of officer)

C. Form CR-1

FORM CR-1
CERTIFICATE OF CERTIFIED REINSURER

I _____, _____
 (name of officer) (title of officer)
 of
 _____,
 ("Assuming Insurer"), the (name of assuming insurer)

assuming insurer under a reinsurance agreement with one or more insurers domiciled in Louisiana, in order to be considered for approval in Louisiana, hereby certify that Assuming Insurer:

1. Submits to the jurisdiction of any court of competent jurisdiction in Louisiana for the adjudication of any issues arising out of the reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement.

2. Designates the Commissioner of Insurance of Louisiana as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding arising out of the reinsurance agreement instituted by or on behalf of the ceding insurer.

3. Agrees to provide security in an amount equal to 100 percent of liabilities attributable to United States ceding insurers if it resists enforcement of a final United States judgment or properly enforceable arbitration award.

4. Agrees to provide notification within 10 days of any regulatory actions taken against it, any change in the provisions of its domiciliary license or any change in its rating by an approved rating agency, including a statement describing such changes and the reasons therefore.

5. Agrees to annually file information comparable to relevant provisions of the NAIC financial statement for use by insurance markets in accordance with LAC 37:XIII.3510.B.7.d.

6. Agrees to annually file the report of the independent auditor on the financial statements of the insurance enterprise.

7. Agrees to annually file audited financial statements, regulatory filings, and actuarial opinion in accordance with LAC 37:XIII.3510.B.7.d.

8. Agrees to annually file an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from United States domestic ceding insurers.

9. Is in good standing as an insurer or reinsurer with the supervisor of its domiciliary jurisdiction.

Dated: _____
 (name of assuming insurer)
 BY: _____
 (name of officer) (title of officer)
 (title of officer)

D. Form RJ-1

FORM RJ-1
 CERTIFICATE OF REINSURER DOMICILED
 IN RECIPROCAL JURISDICTION

I _____
 (name of officer) (title of officer)
 of _____, the assuming
 (name of assuming insurer)
 insurer under a reinsurance agreement with one or more insurers domiciled
 in _____, in order to be considered for approval in this state,
 (name of state)
 hereby certify that _____ ("Assuming Insurer"):
 (name of assuming insurer)

1. Submits to the jurisdiction of any court of competent jurisdiction in Louisiana for the adjudication of any issues arising out of the reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. The assuming insurer agrees that it will include such consent in each reinsurance agreement, if requested by the commissioner. Nothing in this paragraph constitutes or should be understood to constitute a waiver of assuming insurer's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws.

2. Designates the Insurance Commissioner of Louisiana as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding in this state arising out of the reinsurance agreement instituted by or on behalf of the ceding insurer.

3. Agrees to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer, that have been declared enforceable in the territory where the judgment was obtained.

4. Agrees to provide prompt written notice and explanation if it falls below the minimum capital and surplus or capital or surplus ratio, or if any regulatory action is taken against it for serious noncompliance with applicable law.

5. Confirms that it is not presently participating in any solvent scheme of arrangement, which involves insurers domiciled in Louisiana. If the assuming insurer enters into such an arrangement, the assuming insurer agrees to notify the ceding insurer and the commissioner, and to provide 100% security to the ceding insurer consistent with the terms of the scheme.

6. Agrees that in each reinsurance agreement it will provide security in an amount equal to 100% of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final United States judgment, that is enforceable under the law of the territory in which it was obtained, or a properly enforceable arbitration award whether obtained by the ceding insurer or by its resolution estate, if applicable.

7. Agrees to provide the documentation in accordance with §3511.C.5, if requested by the commissioner.

Dated: _____
 (name of assuming insurer)
 BY: _____
 (name of officer) (title of officer)

E. Form CR-F

Form CR-F - PART 1
 Assumed Reinsurance as of December 31, Current Year (000 Omitted)

1 Company Code or ID Number	2	3 Name of Reinsurer	4 Domiciliary Jurisdiction	5 Assumed Premium	6 Reinsurance On			9 Contractual Commissions Payable	10 Assumed Premiums Receivable	11 Unearned Premiums	12 Funds Held By or Deposited With Reinsured Companies	13 Letters of Credit Provided	14 Amount of Assets Pledged or Collateral Held in Trust to Secure Letters of Credit	15 Amount of Assets Pledged or Collateral Held in Trust	
					7 Paid Losses and Adjustment Expenses	8 Known Case Losses and LAE	8 Cdr 6 + 7								

Form CR-F – PART 2
Ceded Reinsurance as of December 31, Current Year (000 Omitted)

1 Company Code or ID Number	2 Name of Reinsurer	3 Contractary Description	4 Reinsurances Covering 75% or More of Direct Premiums Within	5 Reinsurance Premiums Ceded	Reinsurance Recoverable On										Reinsurance Payable		18 Net Amount Recoverable From Reinsurers Calls 15-16 + 17	19 Funds Held by Company Under Reinsurance Trusts
					7 Paid Losses	8 Paid LAE	9 Known Case Losses Reserve	10 Known Case LAE Reserve	11 IBNR Loss Reserve	12 IBNR LAE Reserve	13 Unearned Premiums	14 Contingent Commissions	15 Cols. 7 through 14 Total	16 Ceded Balance Payable	17 Other Amounts Due to Reinsurer			
9999999 Totals																		

F. Form CR-S

Form CR-S – PART 1 – SECTION 1
Reinsurance Assumed Life Insurance, Annuities, Deposit Funds and Other Liabilities
Without Life or Disability Costing, and Related Benefits Listed by Reinsured Company as of December 31, Current Year

1 Company Code or ID Number	2 Effective Date	3 Name of Reinsured	4 Location	5 Type of Reinsurance Assumed	6 Amount of In Force at End of Year	7 Reserve	8 Premiums	9 Reinsurance Payable on Paid and Unpaid Losses	10 Modified Coincidence Reserve	11 Funds Withheld Under Coinsurance
Totals										

Form CR-S- PART 1 - SECTION 2
 Reinsurance Assumed Accident and Health Insurance Listed by Reinsured Company as of December 31, Current Year

1	2	3	4	5	6	7	8	9	10	11	12
Company Code or ID Number	Effective Date	Name of Reinsured	Domiciliary Jurisdiction	Type of Reinsurance Assumed	Premiums	Unearned Premiums	Reserve Liability Other Than For Unearned Premiums	Reinsurance Payable on Paid and Unpaid Losses	Modified Coinsurance Reserve	Funds Withheld Under	
0000000000	0000000000	0000000000	0000000000	0000000000	0000000000	0000000000	0000000000	0000000000	0000000000	0000000000	
Totals											

Form CR-S- PART 2
 Reinsurance Recoverable on Paid and Unpaid Losses Listed by Reinsuring Company as of December 31, Current Year

1	2	3	4	5	6	7
Company Code or ID Number	Effective Date	Name of Company	Location	Paid Losses	Unpaid Losses	
0000000000	0000000000	0000000000	0000000000	0000000000	0000000000	
Totals—Life, Annuity and Accident and Health						

Form CR-S - PART 3 - SECTION 1
Reinsurance Ceded Life Insurance, Annuities, Deposit Funds and Other Liabilities
Without Life or Disability Ceding Codes, and Related Benefits Listed by Reinsuring Company as of December 31, Current Year

1 Company Code or ID Number	2	3 Effective Date	4 Name of Company	5 Location	6 Type of Reinsurance Ceded	7 Amount in Force at End of Year	8 Reserve Credit Taken		9 Premiums	10 Outstanding Surplus Relief		11 Modified Cessionary Reserve	12 Funds Withheld Under Cessionary
							10 Current Year	11 Prior Year		12 Current Year	13 Prior Year		
Total													

Form CR-S - PART 3 - SECTION 2
Reinsurance Ceded Accident and Health Insurance Listed by Reinsuring Company as of December 31, Current Year

1 Company Code or ID Number	2	3 Effective Date	4 Name of Company	5 Location	6 Type	7 Premiums	8 Unearned Premiums (Expense)	9 Reserve Credit Taken Other Than for Unearned Premiums	10 Outstanding Surplus Relief		11 Modified Cessionary Reserve	12 Funds Withheld Under Cessionary
									10 Current Year	11 Prior Year		
Total												

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1820 (July 2013), amended LR 47:

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed amended regulation should have no impact upon the rights and authority of parents regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed amended regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed amended regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

5. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the Rule.

Poverty Impact Statement

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed amended regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed amended regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed amended regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Small Business Analysis

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety,

environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed amended regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed amended regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed amended regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed amended regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed amended regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

Public Comments

Interested persons who wish to make comments may do so by writing to Jennifer Land, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, or by faxing comments to (225) 342-1632. Comments will be accepted through the close of business, 4:30 p.m., July 12, 2021.

James J. Donelon

Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 56—Credit for Reinsurance

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not result in implementation costs or savings to state or local governmental units. The proposed rule changes implement the amendments to the National Association of Insurance Commissioners (NAIC) Credit for Reinsurance Model Regulation. These amendments incorporate relevant provisions of the Bilateral Agreement Between the United States of America and the European Union on Prudential Measures regarding insurance and reinsurance. These provisions will provide for the establishment of credit for

reinsurance ceded by a domestic insurer to an assuming insurer that is licensed to write reinsurance by, and has its head office or is domiciled in, a reciprocal jurisdiction as defined in this regulation.

I. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will have no impact on state or local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes will provide for the establishment of credit for reinsurance ceded by a domestic insurer to an assuming insurer that is licensed to write reinsurance by, and has its head office or is domiciled in, a reciprocal jurisdiction as defined and established by this regulation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will have no impact upon competition and employment in the state.

Denise Gardner
Chief of Staff
2106#056

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

**Regulation 65—Bail Bond Licensing
Requirements/Bounty Hunter
(LAC 37:XIII.Chapter 49)**

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 and 22:11 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend Regulation 65—Bail Bond Licensing Requirements/Bounty Hunter. Regulation 65 requires the mandatory licensing of persons engaging in the apprehension or surrender of a bail bond principal on behalf of insurance companies. This regulation establishes both in state and out of state bail enforcement procedures, as well as notification requirements. Additionally, the regulation outlines the hearing process and fines as delineated in the Louisiana Insurance Code. This regulation enables the Commissioner of Insurance to regulate the bail bond industry and eliminate and penalize those individuals for unsafe practices, which are a threat to the public health, safety, and welfare. The purpose of the amendment to Regulation 65 is to update citations of law, to remove the pre-licensing and continuing education requirements, as those requirements are now included in the recently amended Rule 9—Prelicensing Education and Rule 10—Continuing Education, and to update definitions in compliance with newly enacted laws since the promulgation of Regulation 65.

**Title 37
INSURANCE**

Part XIII. Regulations

**Chapter 49. Regulation 65—Bail Bond Licensing
Requirements/Bounty Hunter**

§4901. Purpose

A. The purpose of this regulation is to establish licensing guidelines and other requirements for persons engaging in the apprehension or surrender of a bail bond principal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:13, 22:822, 22:1211, 22:1441, 22:1443, 22:1543, 22:1547, and 22:1556.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:706 (April 1999), amended LR 47:

§4903. Definitions

A. The following terms when used in this Chapter shall have the following meanings:

Bail Bond Producer—a person who holds an insurance producer license for the line of bail bonds and engages in the apprehension or surrender of persons who are released on bail or who failed to appear at any stage of the proceedings to answer the charge before the court in which they may be prosecuted.

Bail Enforcement—the apprehension or surrender of a principal who is released on bail or who has failed to appear at any stage of the proceedings to answer the charge before the court in which they may be prosecuted. For the purposes of this regulation, bail enforcement shall include those activities commonly known as bail recovery, fugitive recovery or bounty hunting.

Commissioner—the Louisiana Commissioner of Insurance.

Department—the Louisiana Department of Insurance.

Insurer—any domestic, foreign or alien insurance corporation or association engaged in the business of insurance or suretyship which has qualified to transact surety business in this state.

Surrender—as defined by the L.A.-CCRP Article 311.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:13, 22:822, 22:1211, 22:1441, 22:1443, 22:1543, 22:1547, and 22:1556.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:707 (April 1999), amended LR 47:

§4905. Bail Enforcement License Requirements for Louisiana

A. In order to engage in, transact, or assist in bail enforcement, a person must be a duly licensed bail bond producer pursuant to Chapter 5 of Part I of the Louisiana Insurance Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:13, 22:822, 22:1211, 22:1441, 22:1443, 22:1543, 22:1547, and 22:1556.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:707 (April 1999), amended LR 47: