

521B.102 Credit allowed certain domestic ceding insurers.

Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a reduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of [subsection 1, 2, 3, 4, 5, 6, or 7](#). The commissioner may adopt rules pursuant to [section 521B.105](#) specifying additional requirements related to the valuation of assets or reserve credits, the amount and forms of security supporting reinsurance arrangements described in [section 521B.105](#), and the circumstances pursuant to which credit shall be reduced or eliminated. Credit shall be allowed under [subsection 1, 2, or 3](#) only respecting cessions of those kinds or classes of business which the assuming insurer is licensed or otherwise permitted to write or assume in the assuming insurer's state of domicile or, in the case of a United States branch of an alien assuming insurer, in the state through which the alien assuming insurer is entered and licensed to transact insurance or reinsurance. Credit shall be allowed under [subsection 3 or 4](#) only if the applicable requirements of [subsection 8](#) 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. In order to be eligible for accreditation, an assuming insurer must do all of the following:

a. File with the commissioner evidence of the assuming insurer's submission to this state's jurisdiction.

b. Submit to this state's authority to examine the assuming insurer's books and records.

c. Be licensed to transact insurance or reinsurance in at least one state, or in the case of a United States branch of an alien assuming insurer, be entered through and licensed to transact insurance or reinsurance in at least one state.

d. File annually with the commissioner a copy of the assuming insurer's annual statement filed with the insurance department of the assuming insurer's state of domicile and a copy of the assuming insurer's most recent audited financial statement.

e. Demonstrate to the satisfaction of the commissioner that the assuming insurer has adequate financial capacity to meet the assuming insurer's reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. An assuming insurer is deemed to meet this requirement as of the time of the assuming insurer's application if the assuming insurer maintains a surplus as regards policyholders in an amount of not less than twenty million dollars and the assuming insurer's accreditation has not been denied by the commissioner within ninety calendar days after submission of the assuming insurer's application.

3. a. Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is domiciled in, or in the case of a United States branch of an alien assuming insurer is entered through, a state that employs standards regarding credit for reinsurance that are substantially similar to those applicable under [this chapter](#) and the assuming insurer or United States branch of an alien assuming insurer does all of the following:

(1) Maintains a surplus as regards policyholders in an amount of not less than twenty million dollars.

(2) Submits to the authority of this state to examine the assuming insurer's books and records.

b. The requirement of paragraph "a", subparagraph (1), 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 that maintains a trust fund in a qualified United States financial institution, as defined in [section 521B.104, subsection 2](#), for payment of the valid claims of the assuming insurer's United States ceding insurers, their assigns, and successors in interest. To enable the commissioner to determine the sufficiency of the trust fund, the assuming insurer shall report annually to the commissioner information substantially the same as that required to be reported by licensed insurers on the NAIC annual statement form. The assuming insurer shall submit to

examination of the assuming insurer's books and records by the commissioner and bear the expense of examination.

b. Credit for reinsurance shall not be granted under [this subsection](#) unless all of the following conditions are satisfied:

(1) The form of the trust and any amendments to the trust have been approved by either of the following:

(a) The commissioner of the state where the trust is domiciled.

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

(2) The form of the trust and any trust amendments are 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 are valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to the trust's assets in its trustees for the benefit of the assuming insurer's United States ceding insurers, their assigns, and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the commissioner.

(3) The trust remains in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust. No 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 list 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 apply to the following categories of assuming insurer:

(1) The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers, and in addition, the assuming insurer shall maintain a trustee surplus of not less than twenty million dollars, except as provided in subparagraph (2).

(2) At any time after an 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 trustee surplus level is adequate for the protection of United States ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including, when applicable, the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trustee surplus shall not be reduced to an amount less than thirty percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust.

(3) In the case of a group including incorporated and individual unincorporated underwriters, all of the following requirements are met:

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

(b) For reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed after that date, notwithstanding the other provisions of [this chapter](#), 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.

(c) In addition to the trusts described in subparagraph divisions (a) and (b), the group shall maintain in trust a trustee surplus of which one hundred million dollars shall be held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account.

(d) The incorporated members of the group shall not be engaged in any business

other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members of the group.

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

(4) In the case of a group of incorporated underwriters under common administration, the group shall meet all of the following requirements:

(a) Have continuously transacted an insurance business outside the United States for at least three years immediately prior to making application for accreditation.

(b) Maintain aggregate policyholders' surplus of at least ten billion dollars.

(c) Maintain a trust fund in an amount not less than the group's several liabilities attributable to business ceded by United States domiciled ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of the group.

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

(e) Within ninety calendar days after the group's financial statements are due to be filed with the group's domiciliary regulator, make available to the commissioner an annual certification of each underwriter member's solvency by the member's domiciliary regulator and financial statements of each underwriter member of the group prepared by the group's 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 the assuming reinsurer secures its obligations in accordance with the following requirements:

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

(1) The assuming insurer shall be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the commissioner pursuant to paragraph "c".

(2) The assuming insurer shall maintain minimum capital and surplus, or its equivalent, in an amount to be determined by the commissioner pursuant to rule.

(3) The assuming insurer shall maintain financial strength ratings from two or more rating agencies deemed acceptable by the commissioner pursuant to rule.

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

(5) The assuming insurer shall agree to meet applicable information filing requirements as determined by the commissioner, both with respect to an initial application for certification and on an ongoing basis.

(6) The assuming insurer shall 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, the association shall satisfy the requirements of paragraph "a" and in addition satisfy all of the following requirements:

(1) The association shall satisfy the association's 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.

(2) 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 of the association.

(3) Within ninety calendar days after the association's 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 an independent public accountant, 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.

(1) In order to determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the commissioner shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits, and the extent of reciprocal recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled in the United States. In order to be recognized as a qualified jurisdiction, a jurisdiction must agree to share information and to cooperate with the commissioner with respect to all certified reinsurers domiciled within that jurisdiction. A jurisdiction shall not be recognized as a qualified jurisdiction if the commissioner has determined that the jurisdiction does not adequately and promptly enforce final United States judgments and arbitration awards. Additional factors may be considered in the discretion of the commissioner.

(2) 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 recognizes a jurisdiction as qualified that does not appear on the NAIC list of qualified jurisdictions, the commissioner shall provide thoroughly documented justification for the recognition in accordance with criteria as specified in rules adopted by the commissioner.

(3) United States jurisdictions that meet the requirements for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions.

(4) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the commissioner may, in the commissioner's discretion, 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 pursuant to rule. The commissioner shall publish a list of all certified reinsurers and their ratings.

e. A certified reinsurer shall secure obligations assumed from United States ceding insurers under [this subsection](#) at a level consistent with the certified reinsurer's rating, as specified in rules adopted by the commissioner.

(1) In order for a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security in a form acceptable to the commissioner and consistent with the provisions of [section 521B.103](#), or in a multibeneficiary trust in accordance with [subsection 4](#), except as otherwise provided in [this subsection](#).

(2) If a certified reinsurer maintains a trust to fully secure its obligations subject to [subsection 4](#), and chooses to secure its obligations incurred as a certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer shall maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by [this subsection](#) or comparable laws of other United States jurisdictions and for its obligations subject to [subsection 4](#). It shall be a condition to the grant of certification under [this subsection](#) that the certified reinsurer shall bind itself, by the language of the trust and by agreement with the commissioner which has principal regulatory oversight of each such trust account, to fund, upon termination of any

such trust account, any deficiency of any other trust account out of the remaining surplus of the terminated trust account.

(3) The minimum trustee surplus requirements provided in [subsection 4](#) are not applicable with respect to a multibeneficiary trust maintained by a certified reinsurer for the purpose of securing obligations under [this subsection](#), except that such a multibeneficiary trust shall maintain a minimum trustee surplus of ten million dollars.

(4) 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 the commissioner 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.

(5) For purposes of [this subsection](#), a certified reinsurer whose certification has been terminated for any reason shall be treated as a certified reinsurer required to secure all of its obligations.

(a) As used in [this subsection](#), the term “terminated” includes revocation, suspension, voluntary surrender, and inactive status.

(b) If the commissioner continues to assign a higher rating to a certified reinsurer 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 assuming insurer applying for certification as a reinsurer in this state has been certified as a reinsurer in another jurisdiction accredited by the NAIC, 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 the 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 the reinsurer's certification in inactive status in order to qualify for a reduction in the amount of security required for the reinsurer's in-force business. An inactive certified reinsurer shall continue to comply with all applicable requirements of [this subsection](#), and the commissioner shall assign the reinsurer 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 that meets all of the following conditions:

(1) The assuming insurer must have its head office located in or be domiciled in, as applicable, and be licensed in, a reciprocal jurisdiction. For purposes of [this subsection](#), a “reciprocal jurisdiction” is a jurisdiction that meets at least one of the following requirements:

(a) A non-United States jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and the European Union, is a member state of the European Union. For purposes of [this subsection](#), a “covered agreement” is an agreement entered into pursuant to Tit. V, §502(a)(3), 31 U.S.C. §313-314, of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, that is currently in effect or in a period of provisional application and that 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.

(b) A United States jurisdiction that meets the requirements for accreditation under the NAIC financial regulation standards and accreditation program.

(c) A qualified jurisdiction, as determined by the commissioner pursuant to [subsection 5](#), paragraph “c”, which is not otherwise described in this paragraph or paragraph “b”, and that meets certain additional requirements consistent with the terms and conditions of an in-force covered agreement as specified in rules adopted by the commissioner.

(2) The assuming insurer must have and maintain, on an ongoing basis, minimum capital and surplus, or its equivalent, calculated according to the methodology of the assuming insurer's domiciliary jurisdiction, in an amount specified in rules adopted by the commissioner. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, the assuming insurer must have and maintain, on

an ongoing basis, minimum capital and surplus equivalents, net of liabilities, calculated according to the methodology applicable in the assuming insurer's domiciliary jurisdiction, and a central fund containing a balance in an amount as specified in rules adopted by the commissioner.

(3) The assuming insurer must have and maintain, on an ongoing basis, a minimum solvency or capital ratio, as applicable, as specified in rules adopted by the commissioner. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, the assuming insurer 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 where the assuming insurer is also licensed.

(4) The assuming insurer must agree and shall provide to the commissioner, in the form and manner specified by the commissioner, adequate assurance of all of the following:

(a) Prompt written notice and explanation if the assuming insurer falls below the minimum requirements set forth in subparagraph (2) or (3) of this paragraph, or if any regulatory action is taken against the assuming insurer for serious noncompliance with any applicable law.

(b) Written consent that the assuming insurer shall submit 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 also require that consent for service of process be included in each reinsurance agreement entered into by the assuming insurer. This subparagraph division shall not limit or alter the capacity of the parties to a reinsurance agreement to agree to alternative dispute resolution, except to the extent such alternative dispute resolution is unenforceable under applicable insolvency or delinquency laws.

(c) Written agreement that the assuming insurer shall pay all final judgments, wherever enforcement is sought, obtained against the assuming insurer by a ceding insurer, or the ceding insurer's legal successor, that have been declared enforceable in the jurisdiction in which the final judgment is obtained.

(d) Each reinsurance agreement must include a provision requiring the assuming insurer to provide security in an amount equal to one hundred percent of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that reinsurance agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which the final judgment is obtained or under an enforceable arbitration award, whether obtained by the ceding insurer or by the ceding insurer's legal successor on behalf of the ceding insurer's resolution estate.

(e) Written confirmation that the assuming insurer is not presently participating in any solvent scheme of arrangement which involves this state's ceding insurers, and written agreement that the assuming insurer shall notify the ceding insurer and the commissioner and shall provide security in an amount equal to one hundred 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 [subsection 5](#), and [section 521B.103](#).

(5) The assuming insurer or the assuming insurer's legal successor shall provide to the commissioner, on behalf of itself and any legal predecessors, any documentation required pursuant to rules adopted by the commissioner.

(6) Pursuant to rules adopted by the commissioner, the assuming insurer shall maintain prompt payment of claims under all reinsurance agreements.

(7) The assuming insurer's supervisory authority shall annually confirm to the commissioner that as of the preceding December 31, or as of the annual date otherwise statutorily reported to the reciprocal jurisdiction, the assuming insurer complies with the requirements set forth in subparagraphs (2) and (3) of this paragraph.

(8) An assuming insurer shall not be precluded from voluntarily providing any information to the commissioner.

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

(1) The commissioner's list shall include any reciprocal jurisdiction as defined under paragraph "a", subparagraph (1), subparagraph divisions (a) and (b), and the commissioner shall consider any other reciprocal jurisdiction included on the list of reciprocal jurisdictions

published through the NAIC committee process. Pursuant to criteria established by rules adopted by the commissioner, the commissioner may approve a jurisdiction that does not appear on the NAIC list of reciprocal jurisdictions.

(2) 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, pursuant to a process established by rules adopted by the commissioner, except that the commissioner shall not remove a reciprocal jurisdiction as defined under paragraph “a”, subparagraph (1), subparagraph divisions (a) and (b). Upon removal of a reciprocal jurisdiction from the list of reciprocal jurisdictions, credit for reinsurance ceded to an assuming insurer which has its home office in or is domiciled in that reciprocal jurisdiction shall be allowed if otherwise allowed pursuant to [this chapter](#).

c. The commissioner shall timely create and publish a list of assuming insurers that have satisfied the conditions in [this subsection](#) and to which cessions shall be granted credit pursuant to [this subsection](#). The commissioner may add an assuming insurer to the list if a NAIC accredited jurisdiction has added the assuming insurer to the NAIC accredited jurisdiction’s list of assuming insurers or if, upon initial eligibility, the assuming insurer submits the information required under paragraph “a”, subparagraph (4), to the commissioner and complies with any additional requirements pursuant to rules adopted by the commissioner, except to the extent that any of those rules 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 established by rules adopted by the commissioner.

(1) While an assuming insurer’s eligibility is suspended, any reinsurance agreement issued, amended, or renewed after the effective date of the suspension does not qualify for credit except to the extent that the assuming insurer’s obligations under the reinsurance agreement are secured in accordance with [section 521B.103](#).

(2) If an assuming insurer’s eligibility is revoked, credit for reinsurance shall not 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 reinsurance agreement are secured in a form acceptable to the commissioner and consistent with the provisions of [section 521B.103](#).

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

f. [This subsection](#) shall not limit or alter the capacity of the parties to a reinsurance agreement to agree on requirements for security or other terms in the reinsurance agreement, except as expressly prohibited by [this chapter](#) or any other applicable law or regulation.

g. (1) Credit may be taken under [this subsection](#) only for reinsurance agreements entered into, amended, or renewed on or after July 1, 2020, and only with respect to losses incurred and reserves reported on or after the later of the date on which the assuming insurer has met all eligibility requirements pursuant to [this subsection](#), and the effective date of the new reinsurance agreement, amendment, or renewal.

(2) This paragraph shall 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 chapter](#).

h. [This subsection](#) shall not authorize an assuming insurer to withdraw or reduce the security provided under any reinsurance agreement except as permitted by the terms of the reinsurance agreement.

i. [This subsection](#) shall not limit or alter the capacity of parties to any reinsurance agreement to renegotiate the reinsurance agreement.

7. Credit shall be allowed when reinsurance is ceded to an assuming insurer that does not meet the requirements of [subsection 1, 2, 3, 4, 5, or 6](#), 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. *a.* If the assuming insurer is not licensed, accredited, or certified to transact insurance or reinsurance in this state, the credit permitted by [subsections 3 and 4](#) shall not be allowed unless the assuming insurer agrees in the reinsurance agreement to do all of the following:

(1) 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, shall comply with all requirements necessary to give the court jurisdiction, and shall abide by the final decision of the court or of any appellate court in the event of any appeal, concerning such failure.

(2) The assuming insurer shall designate the commissioner or a designated attorney as its true and lawful attorney to receive lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding insurer.

b. [This subsection](#) is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate a dispute if the obligation for the parties to arbitrate disputes is created in the reinsurance agreement.

9. If the assuming insurer does not meet the requirements of [subsection 1, 2, 3, or 6](#), the credit permitted by [subsection 4 or 5](#) shall not be allowed unless the assuming insurer agrees in a trust agreement to satisfy the following conditions:

a. Notwithstanding any other provisions contained in the trust instrument, if the trust fund is inadequate because the trust fund contains an amount less than the amount required by [subsection 4](#), paragraph “c”, or if the grantor of the trust has been declared insolvent or has been placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of the trust’s 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 all of the assets of the trust fund to the commissioner with regulatory oversight over the trust.

b. The assets of the trust shall be distributed, and claims shall be filed and valued, by the commissioner with regulatory oversight over the trust 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 over the trust determines that the assets of the trust fund or any part of the trust fund are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the assets of the trust or any part of those assets shall be returned by the commissioner with regulatory oversight over the trust to the trustee for distribution in accordance with the trust agreement.

d. The grantor shall waive any right otherwise available to the grantor under United States law that is inconsistent with the provisions of [this subsection](#).

10. If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification pursuant to [this section](#), the commissioner may suspend or revoke the reinsurer’s accreditation or certification.

a. The commissioner shall give the reinsurer notice and opportunity for hearing prior to such suspension or revocation. The suspension or revocation shall not take effect until after the commissioner’s order on hearing unless one of the following applies:

(1) The reinsurer waives its right to hearing.

(2) The commissioner’s order is based on regulatory action by the reinsurer’s domiciliary jurisdiction or by the voluntary surrender or termination of the reinsurer’s eligibility to transact insurance or reinsurance business in the reinsurer’s domiciliary jurisdiction or in the primary certifying state of the reinsurer under [subsection 5](#), paragraph “f”.

(3) 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, a reinsurance contract issued or renewed after the effective date of the suspension does not qualify for credit except to the extent that the reinsurer’s obligations under the reinsurance contract are secured in accordance with [section 521B.103](#). If a reinsurer’s accreditation or certification is revoked,

credit for reinsurance shall not be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the reinsurance contract are secured in accordance with [subsection 5](#), paragraph "e", or [section 521B.103](#).

11. *a.* A domestic ceding insurer shall take steps to manage its reinsurance recoverables proportionate to its own book of business. A domestic ceding insurer shall notify the commissioner within thirty calendar days after reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, exceeds fifty percent of the domestic ceding insurer's last reported surplus to policyholders, or after the domestic ceding insurer has 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 domestic ceding insurer shall take steps to diversify its reinsurance program. A domestic ceding insurer shall notify the commissioner within thirty calendar days after ceding to any single assuming insurer, or group of affiliated assuming insurers, more than twenty percent of the domestic ceding insurer's gross written premium in the prior calendar year, or after the domestic ceding insurer 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.

[2013 Acts, ch 39, §2, 11; 2014 Acts, ch 1026, §116; 2017 Acts, ch 7, §5; 2020 Acts, ch 1008, §2 – 19, 27](#)

Referred to in [§508.33A](#), [521B.103](#), [521B.105](#)

2020 amendments to section apply to all cessions under reinsurance agreements that have an inception, anniversary, or renewal date on or after July 1, 2020; 2020 Acts, ch 1008, §27