

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
COMMERCE/INSURANCE DIVISION  
BILL)

**A BILL FOR**

1 An Act relating to credit allowed to domestic ceding insurers  
2 for reinsurance ceded to reinsurers, and including  
3 applicability provisions.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 521B.101A Definitions.

2 For purposes of this chapter, unless the context otherwise  
3 requires:

- 4 1. "Commissioner" means the commissioner of insurance.  
5 2. "NAIC" means the national association of insurance  
6 commissioners.

7 Sec. 2. Section 521B.102, unnumbered paragraph 1, Code  
8 2020, is amended to read as follows:

9 Credit for reinsurance shall be allowed a domestic ceding  
10 insurer as either an asset or a reduction from liability on  
11 account of reinsurance ceded only when the reinsurer meets  
12 the requirements of subsection 1, 2, 3, 4, 5, 5A, or 6. The  
13 commissioner may adopt rules pursuant to section 521B.105  
14 specifying additional requirements related to the valuation of  
15 assets or reserve credits, the amount and forms of security  
16 supporting reinsurance arrangements described in section  
17 521B.105, and the circumstances pursuant to which credit shall  
18 be reduced or eliminated. Credit shall be allowed under  
19 subsection 1, 2, or 3 only respecting cessions of those kinds  
20 or classes of business which the assuming insurer is licensed  
21 or otherwise permitted to write or assume in the assuming  
22 insurer's state of domicile or, in the case of a United States  
23 branch of an alien assuming insurer, in the state through  
24 which the alien assuming insurer is entered and licensed to  
25 transact insurance or reinsurance. Credit shall be allowed  
26 under subsection 3 or 4 only if the applicable requirements of  
27 subsection 7 have been satisfied.

28 Sec. 3. Section 521B.102, subsection 2, paragraph e, Code  
29 2020, is amended to read as follows:

30 e. Demonstrate to the satisfaction of the commissioner that  
31 the assuming insurer has adequate financial capacity to meet  
32 the assuming insurer's reinsurance obligations and is otherwise  
33 qualified to assume reinsurance from domestic insurers. An  
34 assuming insurer is deemed to meet this requirement as of the  
35 time of the assuming insurer's application if the assuming

1 insurer maintains a surplus as regards policyholders in an  
2 amount of not less than twenty million dollars and the assuming  
3 insurer's accreditation has not been denied by the commissioner  
4 within ninety calendar days after submission of the assuming  
5 insurer's application.

6 Sec. 4. Section 521B.102, subsection 3, paragraph a,  
7 unnumbered paragraph 1, Code 2020, is amended to read as  
8 follows:

9 Credit shall be allowed when the reinsurance is ceded to  
10 an assuming insurer that is domiciled in, or in the case of a  
11 United States branch of an alien assuming insurer, is entered  
12 through, a state that employs standards regarding credit for  
13 reinsurance that are substantially similar to those applicable  
14 under this chapter and the assuming insurer or United States  
15 branch of an alien assuming insurer does all of the following:

16 Sec. 5. Section 521B.102, subsection 4, paragraph a, Code  
17 2020, is amended to read as follows:

18 a. Credit shall be allowed when the reinsurance is ceded  
19 to an assuming insurer that maintains a trust fund in a  
20 qualified United States financial institution, as defined  
21 in section 521B.104, subsection 2, for payment of the valid  
22 claims of the assuming insurer's United States ceding insurers,  
23 their assigns, and successors in interest. To enable the  
24 commissioner to determine the sufficiency of the trust fund,  
25 the assuming insurer shall report annually to the commissioner  
26 information substantially the same as that required to be  
27 reported by licensed insurers on the ~~national association of~~  
28 ~~insurance commissioners'~~ NAIC annual statement form ~~by licensed~~  
29 ~~insurers~~. The assuming insurer shall submit to examination of  
30 the assuming insurer's books and records by the commissioner  
31 and bear the expense of examination.

32 Sec. 6. Section 521B.102, subsection 4, paragraph b,  
33 subparagraph (2), Code 2020, is amended to read as follows:

34 (2) The form of the trust and any trust amendments are  
35 filed with the commissioner of every state in which the ceding

1 ~~insurer's~~ insurer beneficiaries of the trust are domiciled.  
2 The trust instrument shall provide that contested claims are  
3 valid and enforceable upon the final order of any court of  
4 competent jurisdiction in the United States. The trust shall  
5 vest legal title to the trust's assets in its trustees for  
6 the benefit of the assuming insurer's United States ceding  
7 insurers, their assigns, and successors in interest. The trust  
8 and the assuming insurer shall be subject to examination as  
9 determined by the commissioner.

10 Sec. 7. Section 521B.102, subsection 4, paragraph c,  
11 subparagraph (3), subparagraph division (e), Code 2020, is  
12 amended to read as follows:

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

20 Sec. 8. Section 521B.102, subsection 4, paragraph c,  
21 subparagraph (4), subparagraph division (e), Code 2020, is  
22 amended to read as follows:

23 (e) Within ninety calendar days after the group's financial  
24 statements are due to be filed with the group's domiciliary  
25 regulator, make available to the commissioner an annual  
26 certification of each underwriter member's solvency by the  
27 member's domiciliary regulator and financial statements of  
28 each underwriter member of the group prepared by the group's  
29 independent public accountant.

30 Sec. 9. Section 521B.102, subsection 5, paragraph a,  
31 subparagraph (4), Code 2020, is amended to read as follows:

32 (4) The assuming insurer shall agree to submit to the  
33 jurisdiction of this state, to appoint the commissioner as the  
34 assuming insurer's agent for service of process in this state,  
35 and agree to provide security for one hundred percent of the

1 assuming insurer's liabilities attributable to reinsurance  
2 ceded by United States ceding insurers, if the assuming insurer  
3 resists enforcement of a final United States judgment.

4 Sec. 10. Section 521B.102, subsection 5, paragraph b,  
5 subparagraph (3), Code 2020, is amended to read as follows:

6 (3) Within ninety calendar days after the association's  
7 financial statements are due to be filed with the association's  
8 domiciliary regulator, the association shall provide to the  
9 commissioner an annual certification by the association's  
10 domiciliary regulator, of the solvency of each underwriter  
11 member, or if a certification is unavailable, financial  
12 statements, prepared by an independent public accountant, of  
13 each underwriter member of the association.

14 Sec. 11. Section 521B.102, subsection 5, paragraph c,  
15 subparagraphs (1), (2), and (3), Code 2020, are amended to read  
16 as follows:

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

35 (2) A list of qualified jurisdictions shall be published

1 through the ~~national association of insurance commissioners'~~  
2 NAIC committee process. The commissioner shall consider  
3 this list in determining qualified jurisdictions. If the  
4 commissioner recognizes a jurisdiction as qualified that does  
5 not appear on the NAIC list of qualified jurisdictions, the  
6 commissioner shall provide thoroughly documented justification  
7 for the recognition in accordance with criteria ~~to be developed~~  
8 by rule as specified in rules adopted by the commissioner.

9 (3) United States jurisdictions that meet the requirements  
10 for accreditation under the ~~national association of insurance~~  
11 ~~commissioners'~~ NAIC financial standards and accreditation  
12 program shall be recognized as qualified jurisdictions.

13 Sec. 12. Section 521B.102, subsection 5, paragraph e,  
14 subparagraph (5), subparagraph division (b), Code 2020, is  
15 amended to read as follows:

16 (b) If the commissioner continues to assign a higher rating  
17 to a certified reinsurer as permitted by other provisions of  
18 this ~~subsection~~ section, this requirement does not apply to a  
19 certified reinsurer in inactive status or to a reinsurer whose  
20 certification has been suspended.

21 Sec. 13. Section 521B.102, subsection 5, paragraph f, Code  
22 2020, is amended to read as follows:

23 *f.* If an assuming insurer applying for certification as a  
24 reinsurer in this state has been certified as a reinsurer in  
25 another jurisdiction accredited by the ~~national association~~  
26 ~~of insurance commissioners~~ NAIC, the commissioner has the  
27 discretion to defer to that jurisdiction's certification, and  
28 has the discretion to defer to the rating assigned by that  
29 jurisdiction, and the assuming insurer shall be considered to  
30 be a certified reinsurer in this state.

31 Sec. 14. Section 521B.102, Code 2020, is amended by adding  
32 the following new subsection:

33 NEW SUBSECTION. 5A. *a.* Credit shall be allowed when the  
34 reinsurance is ceded to an assuming insurer that meets all of  
35 the following conditions:

1 (1) The assuming insurer must have its head office located  
2 in or be domiciled in, as applicable, and be licensed in, a  
3 reciprocal jurisdiction. For purposes of this subsection, a  
4 "*reciprocal jurisdiction*" is a jurisdiction that meets at least  
5 one of the following requirements:

6 (a) A non-United States jurisdiction that is subject to an  
7 in-force covered agreement with the United States, each within  
8 its legal authority, or, in the case of a covered agreement  
9 between the United States and the European Union, is a member  
10 state of the European Union. For purposes of this subsection,  
11 a "*covered agreement*" is an agreement entered into pursuant to  
12 Tit. V, §502(a)(3), 31 U.S.C. §§313-314, of the Dodd-Frank Wall  
13 Street Reform and Consumer Protection Act, Pub. L. No. 111-203,  
14 that is currently in effect or in a period of provisional  
15 application and that addresses the elimination, under specified  
16 conditions, of collateral requirements as a condition for  
17 entering into any reinsurance agreement with a ceding insurer  
18 domiciled in this state or for allowing the ceding insurer to  
19 recognize credit for reinsurance.

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

23 (c) A qualified jurisdiction, as determined by the  
24 commissioner pursuant to subsection 5, paragraph "c", which is  
25 not otherwise described in this paragraph or paragraph "b",  
26 and that meets certain additional requirements consistent with  
27 the terms and conditions of an in-force covered agreement as  
28 specified in rules adopted by the commissioner.

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

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

6 (3) The assuming insurer must have and maintain, on  
7 an ongoing basis, a minimum solvency or capital ratio, as  
8 applicable, as specified in rules adopted by the commissioner.  
9 If the assuming insurer is an association, including  
10 incorporated and individual unincorporated underwriters,  
11 the assuming insurer must have and maintain, on an ongoing  
12 basis, a minimum solvency or capital ratio in the reciprocal  
13 jurisdiction where the assuming insurer has its head office or  
14 is domiciled, as applicable, and where the assuming insurer is  
15 also licensed.

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

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

24 (b) Written consent that the assuming insurer shall submit  
25 to the jurisdiction of the courts of this state and to the  
26 appointment of the commissioner as agent for service of  
27 process. The commissioner may also require that consent for  
28 service of process be included in each reinsurance agreement  
29 entered into by the assuming insurer. This subparagraph  
30 division shall not limit or alter the capacity of the parties  
31 to a reinsurance agreement to agree to alternative dispute  
32 resolution, except to the extent such alternative dispute  
33 resolution is unenforceable under applicable insolvency or  
34 delinquency laws.

35 (c) Written agreement that the assuming insurer shall pay

1 all final judgments, wherever enforcement is sought, obtained  
2 against the assuming insurer by a ceding insurer, or the ceding  
3 insurer's legal successor, that have been declared enforceable  
4 in the jurisdiction in which the final judgment is obtained.

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

15 (e) Written confirmation that the assuming insurer is not  
16 presently participating in any solvent scheme of arrangement  
17 which involves this state's ceding insurers, and written  
18 agreement that the assuming insurer shall notify the ceding  
19 insurer and the commissioner and shall provide security in an  
20 amount equal to one hundred percent of the assuming insurer's  
21 liabilities to the ceding insurer, should the assuming insurer  
22 enter into such a solvent scheme of arrangement. Such security  
23 shall be in a form consistent with the provisions of subsection  
24 5, and section 521B.103.

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

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

32 (7) The assuming insurer's supervisory authority shall  
33 annually confirm to the commissioner that as of the preceding  
34 December 31, or as of the annual date otherwise statutorily  
35 reported to the reciprocal jurisdiction, the assuming insurer

1 complies with the requirements set forth in subparagraphs (2)  
2 and (3) of this paragraph.

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

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

7 (1) The commissioner's list shall include any reciprocal  
8 jurisdiction as defined under paragraph "a", subparagraph  
9 (1), subparagraph divisions (a) and (b), and the commissioner  
10 shall consider any other reciprocal jurisdiction included on  
11 the list of reciprocal jurisdictions published through the  
12 NAIC committee process. Pursuant to criteria established  
13 by rules adopted by the commissioner, the commissioner may  
14 approve a jurisdiction that does not appear on the NAIC list of  
15 reciprocal jurisdictions.

16 (2) The commissioner may remove a jurisdiction from the  
17 list of reciprocal jurisdictions upon a determination that the  
18 jurisdiction no longer meets the requirements of a reciprocal  
19 jurisdiction, pursuant to a process established by rules  
20 adopted by the commissioner, except that the commissioner shall  
21 not remove a reciprocal jurisdiction as defined under paragraph  
22 "a", subparagraph (1), subparagraph divisions (a) and (b).  
23 Upon removal of a reciprocal jurisdiction from the list of  
24 reciprocal jurisdictions, credit for reinsurance ceded to an  
25 assuming insurer which has its home office in or is domiciled  
26 in that reciprocal jurisdiction shall be allowed if otherwise  
27 allowed pursuant to this chapter.

28 *c.* The commissioner shall timely create and publish a  
29 list of assuming insurers that have satisfied the conditions  
30 in this subsection and to which cessions shall be granted  
31 credit pursuant to this subsection. The commissioner may  
32 add an assuming insurer to the list if a NAIC accredited  
33 jurisdiction has added the assuming insurer to the NAIC  
34 accredited jurisdiction's list of assuming insurers or if,  
35 upon initial eligibility, the assuming insurer submits the

1 information required under paragraph "a", subparagraph (4), to  
2 the commissioner and complies with any additional requirements  
3 pursuant to rules adopted by the commissioner, except to the  
4 extent that any of those rules conflict with an applicable  
5 covered agreement.

6 *d.* If the commissioner determines that an assuming insurer  
7 no longer meets one or more of the requirements under this  
8 subsection, the commissioner may revoke or suspend the  
9 eligibility of the assuming insurer for recognition under this  
10 subsection in accordance with procedures established by rules  
11 adopted by the commissioner.

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

18 (2) If an assuming insurer's eligibility is revoked, credit  
19 for reinsurance shall not be granted after the effective date  
20 of the revocation with respect to any reinsurance agreements  
21 entered into by the assuming insurer, including reinsurance  
22 agreements entered into prior to the date of revocation, except  
23 to the extent that the assuming insurer's obligations under  
24 the reinsurance agreement are secured in a form acceptable to  
25 the commissioner and consistent with the provisions of section  
26 521B.103.

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

33 *f.* This subsection shall not limit or alter the capacity of  
34 the parties to a reinsurance agreement to agree on requirements  
35 for security or other terms in the reinsurance agreement,

1 except as expressly prohibited by this chapter or any other  
2 applicable law or regulation.

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

10 (2) This paragraph shall not alter or impair a ceding  
11 insurer's right to take credit for reinsurance, to the extent  
12 that credit is not available under this subsection, as long as  
13 the reinsurance qualifies for credit under any other applicable  
14 provision of this chapter.

15 *h.* This subsection shall not authorize an assuming  
16 insurer to withdraw or reduce the security provided under any  
17 reinsurance agreement except as permitted by the terms of the  
18 reinsurance agreement.

19 *i.* This subsection shall not limit or alter the capacity  
20 of parties to any reinsurance agreement to renegotiate the  
21 reinsurance agreement.

22 Sec. 15. Section 521B.102, subsections 6 and 7, Code 2020,  
23 are amended to read as follows:

24 6. Credit shall be allowed when reinsurance is ceded to  
25 an assuming insurer that does not meet the requirements of  
26 subsection 1, 2, 3, 4, ~~or 5~~, or 5A, but only as to the insurance  
27 of risks located in jurisdictions where the reinsurance is  
28 required by applicable law or regulation of that jurisdiction.

29 7. *a.* If the assuming insurer is not licensed, accredited,  
30 or certified to transact insurance or reinsurance in this  
31 state, the credit permitted by subsections 3 and 4 shall not be  
32 allowed unless the assuming insurer agrees in the reinsurance  
33 ~~agreements~~ agreement to do all of the following:

34 (1) In the event of the failure of the assuming insurer  
35 to perform its obligations under the terms of the reinsurance

1 agreement, the assuming insurer, at the request of the ceding  
2 insurer, ~~will~~ shall submit to the jurisdiction of any court of  
3 competent jurisdiction in any state of the United States, ~~will~~  
4 shall comply with all requirements necessary to give the court  
5 jurisdiction, and ~~will~~ shall abide by the final decision of the  
6 court or of any appellate court in the event of any appeal,  
7 concerning such failure.

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

12 b. This subsection is not intended to conflict with or  
13 override the obligation of the parties to a reinsurance  
14 agreement to arbitrate ~~their disputes~~ a dispute if the  
15 obligation for the parties to arbitrate disputes is created in  
16 the reinsurance agreement.

17 Sec. 16. Section 521B.102, subsection 8, unnumbered  
18 paragraph 1, Code 2020, is amended to read as follows:

19 If the assuming insurer does not meet the requirements  
20 of subsection 1, 2, ~~or~~ 3, or 5A, the credit permitted by  
21 subsection 4 or 5 shall not be allowed unless the assuming  
22 insurer agrees in a trust agreement to satisfy the following  
23 conditions:

24 Sec. 17. Section 521B.102, subsection 9, unnumbered  
25 paragraph 1, Code 2020, is amended to read as follows:

26 If an accredited or certified reinsurer ceases to meet  
27 the requirements ~~of~~ for accreditation or certification  
28 pursuant to this section for accreditation or certification,  
29 the commissioner may suspend or revoke the reinsurer's  
30 accreditation or certification.

31 Sec. 18. Section 521B.102, subsection 9, paragraph b, Code  
32 2020, is amended to read as follows:

33 b. While a reinsurer's accreditation or certification is  
34 suspended, a reinsurance contract issued or renewed after the  
35 effective date of the suspension does not qualify for credit

1 except to the extent that the reinsurer's obligations under the  
2 reinsurance contract are secured in accordance with section  
3 521B.103. If a reinsurer's accreditation or certification is  
4 revoked, credit for reinsurance shall not be granted after the  
5 effective date of the revocation except to the extent that the  
6 reinsurer's obligations under the reinsurance contract are  
7 secured in accordance with subsection 5, paragraph "e", or  
8 section 521B.103.

9 Sec. 19. Section 521B.102, subsection 10, paragraphs a and  
10 b, Code 2020, are amended to read as follows:

11 a. A domestic ceding insurer shall take steps to manage  
12 its reinsurance recoverables proportionate to its own book  
13 of business. A domestic ceding insurer shall notify the  
14 commissioner within thirty calendar days after reinsurance  
15 recoverables from any single assuming insurer, or group  
16 of affiliated assuming insurers, exceeds fifty percent  
17 of the domestic ceding insurer's last reported surplus to  
18 policyholders, or after ~~it is determined~~ the domestic ceding  
19 insurer has determined that reinsurance recoverables from  
20 any single assuming insurer, or group of affiliated assuming  
21 insurers, is likely to exceed this limit. The notification  
22 shall demonstrate that the exposure is safely managed by the  
23 domestic ceding insurer.

24 b. A domestic ceding insurer shall take steps to diversify  
25 its reinsurance program. A domestic ceding insurer shall  
26 notify the commissioner within thirty calendar days after  
27 ceding to any single assuming insurer, or group of affiliated  
28 assuming insurers, more than twenty percent of the domestic  
29 ceding insurer's gross written premium in the prior calendar  
30 year, or after the domestic ceding insurer has determined that  
31 the reinsurance ceded to any single assuming insurer, or group  
32 of affiliated assuming insurers, is likely to exceed this  
33 limit. The notification shall demonstrate that the exposure is  
34 safely managed by the domestic ceding insurer.

35 Sec. 20. Section 521B.103, Code 2020, is amended to read as

1 follows:

2 **521B.103 Limited credit allowed other domestic ceding**  
3 **insurers.**

4 1. An asset or a reduction from liability for reinsurance  
5 ceded by a domestic insurer to an assuming insurer not meeting  
6 the requirements of section 521B.102, shall be allowed in an  
7 amount not exceeding the liabilities carried by the ceding  
8 insurer. The commissioner may adopt rules pursuant to section  
9 521B.105 specifying requirements related to the valuation of  
10 assets or reserve credits, the amount and forms of security  
11 supporting reinsurance arrangements described in section  
12 521B.105, and the circumstances pursuant to which credit shall  
13 be reduced or eliminated. The reduction shall be in the  
14 amount of funds held by or on behalf of the ceding insurer,  
15 including funds held in trust for the ceding insurer, under a  
16 reinsurance contract with the assuming insurer as security for  
17 the payment of obligations under the reinsurance contract, if  
18 the security is held in the United States subject to withdrawal  
19 solely by, and under the exclusive control of, the ceding  
20 insurer, or in the case of a trust, held in a qualified United  
21 States financial institution as defined in section 521B.104,  
22 subsection 2.

23 2. The security may be in the form of any of the following:

24 a. Cash.

25 b. A security listed by the securities valuation office  
26 of the ~~national association of insurance commissioners~~ NAIC,  
27 including those securities deemed exempt from filing as  
28 defined by the purposes and procedures manual of the securities  
29 valuation office and those securities qualifying as admitted  
30 assets.

31 c. (1) Clean, irrevocable, unconditional letters of credit,  
32 issued or confirmed by a qualified United States financial  
33 institution, as defined in section 521B.104, subsection 1,  
34 effective no later than December 31 of the year for which the  
35 filing is being made, and in the possession of, or in trust

1 for, the ceding insurer on or before the filing date of the  
2 ceding insurer's annual statement.

3 (2) A letter of credit meeting applicable standards  
4 of issuer acceptability as of the date of the issuance or  
5 confirmation of the letter of credit's issuance or confirmation  
6 credit shall, notwithstanding the issuing or confirming  
7 institution's subsequent failure to meet applicable standards  
8 of issuer acceptability, continue to be acceptable as security  
9 until the expiration, extension, renewal, modification, or  
10 amendment of the letter of credit, whichever occurs first.

11 d. Any other form of security acceptable to the  
12 commissioner.

13 Sec. 21. Section 521B.104, subsection 1, paragraph c, Code  
14 2020, is amended to read as follows:

15 c. Has been determined by either the commissioner or the  
16 securities valuation office of the ~~national association of~~  
17 ~~insurance commissioners~~ NAIC to meet the standards of financial  
18 condition and standing as are considered necessary and  
19 appropriate to regulate the quality of financial institutions  
20 whose letters of credit will be acceptable to the commissioner.

21 Sec. 22. Section 521B.105, subsection 1, Code 2020, is  
22 amended to read as follows:

23 1. The commissioner may adopt rules, pursuant to chapter  
24 17A, as necessary or convenient to administer this chapter.

25 Sec. 23. Section 521B.105, subsection 2, paragraph a,  
26 unnumbered paragraph 1, Code 2020, is amended to read as  
27 follows:

28 A rule adopted pursuant to this subsection is applicable  
29 only to reinsurance arrangements relating to any of the  
30 following:

31 Sec. 24. Section 521B.105, subsection 2, paragraph a,  
32 subparagraph (5), Code 2020, is amended to read as follows:

33 (5) Other life and health insurance and annuity products as  
34 to which the ~~national association of insurance commissioners~~  
35 NAIC adopts model regulatory requirements with respect to

1 credit for reinsurance.

2 Sec. 25. Section 521B.105, subsection 2, paragraph c, Code  
3 2020, is amended to read as follows:

4 c. A rule adopted pursuant to this subsection may require  
5 the ceding insurer, in calculating the amounts or forms of  
6 security required to be held under rules adopted under this  
7 subsection, to use the valuation manual as defined in section  
8 508.36, including all amendments adopted by the ~~national~~  
9 ~~association of insurance commissioners~~ NAIC and in effect on  
10 the date as of which the calculation is made, to the extent  
11 applicable.

12 Sec. 26. Section 521B.105, subsection 3, Code 2020, is  
13 amended to read as follows:

14 3. A rule adopted pursuant to this section is not applicable  
15 to cessions to an assuming insurer that meets either any of the  
16 following requirements:

17 a. Meets the conditions set forth in section 521B.102,  
18 subsection 6.

19 ~~a.~~ b. Is certified in Iowa.

20 ~~b.~~ c. Maintains at least two hundred fifty million dollars  
21 in capital and surplus when determined in accordance with the  
22 accounting practices and procedures manual of the ~~national~~  
23 ~~association of insurance commissioners~~ NAIC, including all  
24 amendments adopted by the ~~national association of insurance~~  
25 ~~commissioners~~ NAIC, but excluding the impact of any permitted  
26 or prescribed practices; and meets either of the following  
27 requirements:

28 (1) Is licensed in at least twenty-six states.

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

31 Sec. 27. APPLICABILITY. This Act applies to all cessions  
32 under reinsurance agreements that have an inception,  
33 anniversary, or renewal date on or after July 1, 2020.

34 EXPLANATION

35 The inclusion of this explanation does not constitute agreement with

1 the explanation's substance by the members of the general assembly.

2 This bill relates to credit allowed to domestic ceding  
3 insurers for reinsurance ceded to reinsurers.

4 The bill amends Code chapter 521B (credit for reinsurance)  
5 to conform more closely to the national association of  
6 insurance commissioners' (NAIC) credit for reinsurance model  
7 act.

8 The bill provides that credit is allowed when reinsurance is  
9 ceded to an assuming insurer that has its head office located  
10 in, or is domiciled in, and is licensed in, a reciprocal  
11 jurisdiction. A "reciprocal jurisdiction" is defined in the  
12 bill as a jurisdiction that is a non-United States jurisdiction  
13 that is subject to an in-force covered agreement with the  
14 United States, or a United States jurisdiction that meets  
15 the requirements for accreditation under the NAIC financial  
16 regulation standards and accreditation program, or a qualified  
17 jurisdiction as determined by the commissioner that meets  
18 certain additional requirements consistent with the terms and  
19 conditions of an in-force covered agreement.

20 "Covered agreement" is defined in the bill as an agreement  
21 entered into pursuant to Tit. V, §502(a)(3), 31 U.S.C.  
22 §§313-314, of the Dodd-Frank Wall Street Reform and Consumer  
23 Protection Act, that is currently in effect or in a period of  
24 provisional application and that addresses the elimination,  
25 under specified conditions, of collateral requirements as a  
26 condition for entering into a reinsurance agreement with a  
27 ceding insurer domiciled in this state, or for allowing the  
28 ceding insurer to recognize credit for reinsurance.

29 The bill requires an assuming insurer to maintain minimum  
30 capital and surplus, or its equivalent, calculated according  
31 to the methodology of the assuming insurer's domiciliary  
32 jurisdiction, in an amount specified by the commissioner  
33 of insurance (commissioner). If an assuming insurer is  
34 an association, including incorporated and individual  
35 unincorporated underwriters, the assuming insurer must

1 maintain minimum capital and surplus equivalents, net of  
2 liabilities, calculated according to the methodology of the  
3 assuming insurer's domiciliary jurisdiction, and a central  
4 fund containing a balance in an amount specified by the  
5 commissioner. The bill also requires an assuming insurer to  
6 maintain a minimum solvency or capital ratio as specified by  
7 the commissioner. If the assuming insurer is an association,  
8 including incorporated and individual unincorporated  
9 underwriters, the assuming insurer must maintain a minimum  
10 solvency or capital ratio in the reciprocal jurisdiction where  
11 the assuming insurer has its head office or is domiciled, and  
12 where the assuming insurer is also licensed.

13 The bill requires an assuming insurer to provide written  
14 notice and an explanation to the commissioner if the assuming  
15 insurer falls below the minimum requirements for surplus,  
16 solvency, or capital, or if any regulatory action is taken  
17 against the assuming insurer for noncompliance with applicable  
18 laws.

19 An assuming insurer must also provide written consent to  
20 the commissioner that the assuming insurer will submit to the  
21 jurisdiction of the courts of this state and to the appointment  
22 of the commissioner as agent for service of process. The  
23 commissioner may also require that consent for service of  
24 process be included in each reinsurance agreement entered into  
25 by the assuming insurer. The bill provides that an assuming  
26 insurer must also agree that the assuming insurer will pay all  
27 final judgments obtained against it by a ceding insurer, or  
28 the ceding insurer's legal successor, that have been declared  
29 enforceable in the jurisdiction in which the final judgment  
30 is obtained. Each reinsurance agreement must also include a  
31 provision requiring the assuming insurer to provide security  
32 in an amount equal to 100 percent of the assuming insurer's  
33 liabilities attributable to reinsurance ceded pursuant to  
34 that reinsurance agreement if the assuming insurer resists  
35 enforcement of a final judgment.

1 An assuming insurer is required by the bill to provide the  
2 commissioner with confirmation that the assuming insurer is not  
3 presently participating in any solvent scheme of arrangement  
4 which involves Iowa's ceding insurers, and written agreement  
5 that the assuming insurer will notify the ceding insurer and  
6 the commissioner and will provide security in an amount equal  
7 to 100 percent of the assuming insurer's liabilities to the  
8 ceding insurer, should the assuming insurer enter into a  
9 solvent scheme of arrangement.

10 An assuming insurer is required to maintain prompt claim  
11 payments under all reinsurance agreements. The assuming  
12 insurer's supervisory authority must annually confirm to the  
13 commissioner that the assuming insurer complies with the  
14 requirements for minimum surplus, solvency, and capital.

15 The bill requires the commissioner to create and publish a  
16 list of reciprocal jurisdictions which must be determined by  
17 the commissioner as detailed in the bill. The commissioner  
18 must also create and publish a list of assuming insurers that  
19 have satisfied the conditions required for cessions to be  
20 granted credit. The commissioner may add an assuming insurer  
21 to that list if a NAIC accredited jurisdiction has added the  
22 assuming insurer to the NAIC accredited jurisdiction's list  
23 of assuming insurers, or if the assuming insurer submits the  
24 information as detailed in the bill to the commissioner, and  
25 complies with any additional requirements pursuant to rules  
26 adopted by the commissioner.

27 The bill allows the commissioner to revoke or suspend the  
28 eligibility of an assuming insurer for inclusion on the list if  
29 the commissioner determines that an assuming insurer no longer  
30 meets the requirements to be on the list. If an assuming  
31 insurer's eligibility is suspended, any reinsurance agreements  
32 issued, amended, or renewed after the effective date of the  
33 suspension do not qualify for credit except to the extent  
34 that the assuming insurer's obligations under the reinsurance  
35 agreement are secured. If an assuming insurer's eligibility

1 is revoked, credit for reinsurance shall not be granted after  
2 the effective date of the revocation with respect to any  
3 reinsurance agreements entered into by the assuming insurer,  
4 including reinsurance agreements entered into prior to the date  
5 of revocation, except to the extent that the assuming insurer's  
6 obligations under the reinsurance agreement are secured in a  
7 form acceptable to the commissioner.

8 If a ceding insurer is subject to a legal process of  
9 rehabilitation, liquidation, or conservation, the ceding  
10 insurer may seek an order requiring that the assuming insurer  
11 post security for all outstanding ceded liabilities.

12 The bill does not limit or alter the capacity of the parties  
13 to a reinsurance agreement to agree on requirements for  
14 security or other terms in the reinsurance agreement, except  
15 as expressly prohibited by Code chapter 521B, or any other  
16 applicable law or regulation.

17 Credit may be taken under the provisions of the bill only for  
18 reinsurance agreements entered into, amended, or renewed on or  
19 after the effective date of the bill, and only with respect to  
20 losses incurred and reserves reported on or after the later of  
21 the date on which the assuming insurer has met all eligibility  
22 requirements under the bill, and the effective date of the new  
23 reinsurance agreement, amendment, or renewal.

24 The bill does not authorize an assuming insurer to withdraw  
25 or reduce the security provided under any reinsurance agreement  
26 except as permitted by the terms of the reinsurance agreement,  
27 or limit or alter the capacity of parties to any reinsurance  
28 agreement to renegotiate the reinsurance agreement.

29 The bill applies to all cessions under reinsurance  
30 agreements that have an inception, anniversary, or renewal date  
31 after July 1, 2020.