

CHAPTER 235
HB 231 – FINAL VERSION

05/23/13 1490s
5June2013... 2078EBA

2013 SESSION

13-0345
01/10

HOUSE BILL **231**

AN ACT relative to reinsurance.

SPONSORS: Rep. Schlachman, Rock 18; Rep. John Hunt, Ches 11

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill amends the existing law regarding reinsurance to conform to the National Association of Insurance Commissioner's (NAIC) model.

This bill is a request of the insurance department.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struck through~~].
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to reinsurance.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 235:1 Reinsurance; Purpose. Amend RSA 405:45 to read as follows:

2 405:45 Purpose. The purpose of this subdivision is to protect the interest of insureds, claimants,
3 ceding insurers, assuming insurers, and the public generally. The general court hereby declares its
4 intent is to ensure adequate regulation of insurers and reinsurers and adequate protection for those
5 to whom they owe obligations. In furtherance of that state interest, the general court hereby
6 provides a mandate that upon the insolvency of a non-U.S. insurer or reinsurer that provides
7 security to fund its United States obligations in accordance with this subdivision, the assets
8 representing the security shall be maintained in the United States and claims shall be filed with and
9 valued by the state insurance commissioner with regulatory oversight, and the assets shall be
10 distributed, in accordance with the *insurance* laws of the state in which the trust is domiciled that
11 are applicable to the liquidation of domestic United States insurance companies. The general court
12 declares that the matters contained in this subdivision are fundamental to the business of insurance
13 in accordance with 15 U.S.C. sections 1011-1012.

14 235:2 Reinsurance; Definitions. RSA 405:46 is repealed and reenacted to read as follows:

15 405:46 Definitions. In this subdivision:

16 I. "NAIC" means the National Association of Insurance Commissioners.

17 II. A "qualified U.S. financial institution" means an institution that:

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

20 (b) Is regulated, supervised, and examined by U.S. federal or state authorities having
21 regulatory authority over banks and trust companies; and

22 (c) Has been determined by either the commissioner or the Securities Valuation Office of
23 the National Association of Insurance Commissioners to meet such standards of financial condition
24 and standing as are considered necessary and appropriate to regulate the quality of financial
25 institutions whose letters of credit will be acceptable to the commissioner.

26 III. A "qualified U.S. financial institution" means, for purposes of those provisions of this
27 subdivision specifying those institutions that are eligible to act as a fiduciary of a trust, an
28 institution that:

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

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

6 235:3 Reinsurance; Credit Allowed a Domestic Ceding Insurer. Amend RSA 405:47 to read as
7 follows:

8 405:47 Credit Allowed a Domestic Ceding Insurer. Credit for reinsurance shall be allowed a
9 domestic ceding insurer as either an asset or a reduction from liability on account of reinsurance
10 ceded only when the reinsurer meets the requirements of paragraphs I, II, III, IV, or V. Credit shall
11 be allowed under paragraphs I, II, or III only ~~[relating to]~~ **as respects** cessions of those kinds or
12 classes of business which the assuming insurer is licensed or otherwise permitted to write or assume
13 in its state of domicile or, in the case of a U.S. branch of an alien assuming insurer, in the state
14 through which it is entered and licensed to transact insurance or reinsurance. Credit shall be
15 allowed under paragraphs III or IV only if the applicable requirements of paragraph VI have been
16 satisfied.

17 I. Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is
18 licensed to transact ~~[that line of]~~ insurance or reinsurance in this state.

19 II.~~[(a)]~~ Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is
20 accredited **by the commissioner** as a reinsurer in this state. ~~[An accredited]~~ **To be eligible for**
21 **accreditation a** reinsurer ~~[is one that]~~ **shall:**

22 ~~[(1)]~~ **(a)** ~~[Files]~~ **File** with the commissioner evidence of its submission to this state's
23 jurisdiction.

24 ~~[(2)]~~ **(b)** ~~[Submits]~~ **Submit** to this state's authority to examine its books and records.

25 ~~[(3)]~~ **(c)** ~~[Is]~~ **Be** licensed to transact ~~[the ceded line of]~~ insurance or reinsurance in at
26 least one state, or, in the case of a U.S. branch of an alien assuming insurer, is entered through and
27 licensed to transact insurance or reinsurance in at least one state.

28 ~~[(4)]~~ **(d)** ~~[Files]~~ **File** annually with the commissioner a copy of its annual statement
29 filed with the insurance department of its state of domicile and a copy of its most recent audited
30 financial statement ~~[and]~~.

31 **(e) Demonstrate to the satisfaction of the commissioner that it has adequate**
32 **financial capacity to meet its reinsurance obligations and is otherwise qualified to assume**
33 **reinsurance from domestic insurers. An assuming insurer is deemed to meet the**
34 **requirements as of the time of its application if it**

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1 ~~[(A)]~~ maintains a surplus ~~[concerning]~~ **as regards** policyholders in an amount
2 not less than \$20,000,000 and ~~[whose]~~ **its** accreditation has not been denied by the commissioner
3 within 90 days ~~[of its]~~ **after** submission~~[-or]~~ **of its application.**

4 ~~[(B)]~~ Maintains a surplus concerning policyholders in an amount less than
5 \$20,000,000 and whose accreditation has been approved by the commissioner.

6 ~~(b)~~ Credit shall not be allowed a domestic ceding insurer if the assuming insurer's
7 accreditation has been revoked by the commissioner after notice and hearing.

8 ~~III.(a)~~ Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is
9 domiciled in, or in case of a U.S. branch of an alien assuming insurer that is entered through, a state
10 that employs standards regarding credit for reinsurance substantially similar to those applicable
11 under this subdivision and the assuming insurer or U.S. branch of an alien assuming insurer:

12 ~~(1)~~ Maintains a surplus concerning policyholders in an amount not less than
13 \$20,000,000; and

14 ~~(2)~~ Submits to the authority of this state to examine its books and records.

15 ~~(b)~~ The requirement of subparagraph III(a)(1) shall not apply to reinsurance ceded and
16 assumed pursuant to pooling arrangements among insurers in the same holding company system.]

17 **III.(a) Credit shall be allowed when the reinsurance is ceded to an assuming**
18 **insurer that is domiciled in, or, in the case of a U.S. branch of an alien assuming insurer,**
19 **is entered through, a state that employs standards regarding credit for reinsurance**
20 **substantially similar to those applicable under this subdivision and the assuming insurer**
21 **or U.S. branch of an alien assuming insurer:**

22 **(1) Maintains a surplus as regards policyholders in an amount not less than**
23 **\$20,000,000; and**

24 **(2) Submits to the authority of this state to examine its books and records.**

25 **(b) Subparagraph (a)(1) does not apply to reinsurance ceded and assumed**
26 **pursuant to pooling arrangements among insurers in the same holding company system.**

27 IV.(a) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that
28 maintains a trust fund in a qualified United States financial institution, as defined in RSA 405:46[
29 VII,] for the payment of the valid claims of its United States ceding insurers, their assigns and
30 successors in interest. To enable the commissioner to determine the sufficiency of the trust fund, the
31 assuming insurer shall report annually to the commissioner information substantially the same as
32 that required to be reported on the NAIC Annual Statement form by licensed insurers. The
33 assuming insurer shall submit to examination of its books and records by the commissioner and bear
34 the expense of examination.

35 (b)(1) Credit for reinsurance shall not be granted under this section unless the form of
36 the trust and any amendments to the trust have been approved by:

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1 (A) The commissioner of the state where the trust is domiciled; or

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

4 (2) The form of the trust and any trust amendments also shall be filed with the
5 commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The
6 trust instrument shall provide that contested claims shall be valid and enforceable upon the final
7 order of any court of competent jurisdiction of the United States. The trust shall vest legal title to its
8 assets in its trustees for the benefit of the assuming insurer's U.S. ceding insurers, their assigns and
9 successors in interest. The trust and the assuming insurer shall be subject to examination as
10 determined by the commissioner.

11 (3) The trust shall remain in effect for as long as the assuming insurer has
12 outstanding obligations due under the reinsurance agreements subject to the trust. No later than
13 February 28 of each year, the trustee of the trust shall report to the commissioner in writing the
14 balance of the trust and listing the trust's investments at the preceding year end and shall certify
15 the date of termination of the trust, if so planned, or certify that the trust will not expire prior to the
16 following December 31.

17 (c) The following requirements apply to the following categories of assuming insurers:

18 (1) The trust fund for a single assuming insurer shall consist of funds in trust in an
19 amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by U.S.
20 ceding insurers, and, in addition, the assuming insurer shall maintain a trusteed surplus of not less
21 than \$20,000,000, *except as provided in subparagraph (2)*.

22 (2) *At any time after the assuming insurer has permanently discontinued*
23 *underwriting new business secured by the trust for at least 3 full years, the commissioner*
24 *with principal regulatory oversight of the trust may authorize a reduction in the required*
25 *trusteed surplus, but only after a finding, based on an assessment of the risk, that the new*
26 *required surplus level is adequate for the protection of U.S. ceding insurers, policyholders*
27 *and claimants in light of reasonably foreseeable adverse loss development. The risk*
28 *assessment may involve an actuarial review, including an independent analysis of reserves*
29 *and cash flows, and shall consider all material risk factors, including when applicable the*
30 *lines of business involved, the stability of the incurred loss estimates and the effect of the*
31 *surplus requirements on the assuming insurer's liquidity or solvency. The minimum*
32 *required trusteed surplus shall not be reduced to an amount less than 30 percent of the*
33 *assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers*
34 *covered by the trust.*

35 ~~(2)~~ (3) In the case of a group including incorporated and individual unincorporated
36 underwriters:

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1 (A) For reinsurance ceded under reinsurance agreements with an inception,
2 amendment, or renewal date on or after August 1, 1995, the trust shall consist of a trustee account
3 in an amount not less than the [group's] **respective underwriters'** several liabilities attributable to
4 business ceded by U.S. domiciled ceding insurers to any [member] **underwriter** of the group;

5 (B) For reinsurance ceded under reinsurance agreements with an inception date
6 on or before July 31, 1995, and not amended or renewed after that date, notwithstanding the other
7 provisions of this chapter, the trust shall consist of a trustee account in an amount not less than the
8 [group's] **respective underwriters'** several insurance and reinsurance liabilities attributable to
9 business written in the United States; and

10 (C) In addition to these trusts, the group shall maintain in trust a trustee
11 surplus of which \$100,000,000 shall be held jointly for the benefit of the U.S. domiciled ceding
12 insurers of any member of the group for all years of account; and

13 [~~(3)~~] **(4)** The incorporated members of the group shall not be engaged in any business
14 other than underwriting as a member of the group and shall be subject to the same level of
15 regulation and solvency control by the group's domiciliary regulator as are the unincorporated
16 members.

17 [~~(4)~~] **(5)** Within 90 days after its financial statements are due to be filed with the
18 group's domiciliary regulator, the group shall provide to the commissioner an annual certification by
19 the group's domiciliary regulator of the solvency of each underwriter member; or if a certification is
20 unavailable, financial statements, prepared by independent public accountants, of each underwriter
21 member of the group.

22 (d) In the case of a group of incorporated underwriters under common administration,
23 the group shall:

24 (1) Have continuously transacted an insurance business outside the United States
25 for at least 3 years immediately prior to making application for accreditation;

26 (2) Maintain aggregate policyholders' surplus of at least \$10,000,000,000;

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

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

33 (5) Within 90 days after **its** financial statements are due to be filed with the group's
34 domiciliary regulator, make available to the commissioner an annual certification of each
35 underwriter member's solvency by the member's domiciliary regulator and financial statements of
36 each underwriter member of the group prepared by its independent public accountant.

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1 *IV-a. Credit shall be allowed when the reinsurance is ceded to an assuming insurer*
2 *that has been certified by the commissioner as a reinsurer in this state and secures its*
3 *obligations in accordance with the requirements of this paragraph.*

4 *(a) To be eligible for certification, the assuming insurer shall meet the*
5 *following requirements:*

6 *(1) Be domiciled and licensed to transact insurance or reinsurance in a*
7 *qualified jurisdiction, as determined by the commissioner pursuant to subparagraph (c);*

8 *(2) Maintain minimum capital and surplus, or its equivalent, in an amount*
9 *to be determined by the commissioner pursuant to rule;*

10 *(3) Maintain financial strength ratings from 2 or more rating agencies*
11 *deemed acceptable to the commissioner pursuant to rule;*

12 *(4) Agree to submit to the jurisdiction of this state, appoint the commissioner*
13 *as its agent for service of process in this state, and agree to provide security for 100 percent*
14 *of the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding*
15 *insurers if it resists enforcement of a final U.S. judgment;*

16 *(5) Agree to meet applicable information filing requirements as determined*
17 *by the commissioner, both with respect to an initial application for certification and on an*
18 *ongoing basis; and*

19 *(6) Satisfy any other requirements for certification deemed relevant by the*
20 *commissioner.*

21 *(b) An association including incorporated and individual unincorporated*
22 *underwriters may be a certified reinsurer. To be eligible for certification, in addition to*
23 *satisfying the requirements of subparagraph (a):*

24 *(1) The association shall satisfy its minimum capital and surplus*
25 *requirements through the capital and surplus equivalents (net of liabilities) of the*
26 *association and its members, which shall include a joint central fund that may be applied*
27 *to any unsatisfied obligation of the association or any of its members, in an amount*
28 *determined by the commissioner to provide adequate protection.*

29 *(2) The incorporated members of the association shall not be engaged in any*
30 *business other than underwriting as a member of the association and shall be subject to*
31 *the same level of regulation and solvency control by the association's domiciliary regulator*
32 *as are the unincorporated members; and*

33 *(3) Within 90 days after its financial statements are due to be filed with the*
34 *association's domiciliary regulator, the association shall provide to the commissioner an*
35 *annual certification by the association's domiciliary regulator of the solvency of each*

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1 *underwriter member; or if a certification is unavailable, financial statements, prepared by*
2 *independent public accountants, of each underwriter member of the association.*

3 *(c) The commissioner shall create and publish a list of qualified jurisdictions,*
4 *under which an assuming insurer licensed and domiciled in such jurisdiction is eligible to*
5 *be considered for certification by the commissioner as a certified reinsurer.*

6 *(1) To determine whether the domiciliary jurisdiction of a non-U.S.*
7 *assuming insurer is eligible to be recognized as a qualified jurisdiction, the commissioner*
8 *shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system*
9 *of the jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits*
10 *and the extent of reciprocal recognition afforded by the non-U.S. jurisdiction to reinsurers*
11 *licensed and domiciled in the U.S. A qualified jurisdiction shall agree to share*
12 *information and cooperate with the commissioner with respect to all certified reinsurance*
13 *domiciled within that jurisdiction. A jurisdiction shall not be recognized as a qualified*
14 *jurisdiction if the commissioner has determined that the jurisdiction does not adequately*
15 *and promptly enforce final U.S. judgments and arbitration awards. Additional factors*
16 *may be considered in the discretion of the commissioner.*

17 *(2) A list of qualified jurisdictions shall be published through the NAIC*
18 *committee process. The commissioner shall consider this list in determining qualified*
19 *jurisdictions. If the commissioner approves a jurisdiction as qualified that does not*
20 *appear on the list of qualified jurisdictions, the commissioner shall provide thoroughly*
21 *documented justification in accordance with criteria to be developed under regulation.*

22 *(3) U.S. jurisdictions that meet the requirement for accreditation under the*
23 *NAIC financial standards and accreditation program shall be recognized as qualified*
24 *jurisdictions.*

25 *(4) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified*
26 *jurisdiction, the commissioner has the discretion to suspend the reinsurer's certification*
27 *indefinitely, in lieu of revocation.*

28 *(d) The commissioner shall assign a rating to each certified reinsurer, giving*
29 *due consideration to the financial strength ratings that have been assigned by rating*
30 *agencies deemed acceptable to the commissioner pursuant to rule. The commissioner shall*
31 *publish a list of all certified reinsurers and their ratings.*

32 *(e) A certified reinsurer shall secure obligations assumed from U.S. ceding*
33 *insurers under this subparagraph at a level consistent with its rating, as specified in rules*
34 *accepted by the commissioner.*

35 *(1) In order for a domestic ceding insurer to qualify for full financial*
36 *statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall*

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1 *maintain security in a form acceptable to the commissioner and consistent with the*
2 *provisions of RSA 405:50, or in a multi-beneficiary trust in accordance with RSA 405:47, IV,*
3 *except as otherwise provided in this subparagraph.*

4 *(2) If a certified reinsurer maintains a trust to fully secure its obligations*
5 *subject to RSA 405:47, IV, and chooses to secure its obligations incurred as a certified*
6 *reinsurer in the form of a multi-beneficiary trust, the certified reinsurer shall maintain*
7 *separate trust accounts for its obligations incurred under reinsurance agreements issued*
8 *or renewed as a certified reinsurer with reduced security as permitted by this*
9 *subparagraph or comparable laws of other U.S. jurisdictions and for its obligations*
10 *subject to RSA 405:47, IV. It shall be a condition to the grant of certification under*
11 *RSA 405:47, IV-a that the certified reinsurer shall have bound itself, by the language of the*
12 *trust and agreement with the commissioner with principal regulatory oversight of each*
13 *such trust account, to fund, upon termination of any such trust account, out of the*
14 *remaining surplus of such trust any deficiency of any other such trust account.*

15 *(3) The minimum trustee surplus requirements provided in RSA 405:47, IV*
16 *are not applicable with respect to a multi-beneficiary trust maintained by a certified*
17 *reinsurer for the purpose of securing obligations incurred under this paragraph, except*
18 *that such trust shall maintain a minimum trustee surplus of \$10,000,000.*

19 *(4) With respect to obligations incurred by a certified reinsurer under this*
20 *subparagraph, if the security is insufficient, the commissioner shall reduce the allowable*
21 *credit by an amount proportionate to the deficiency, and has the discretion to impose*
22 *further reductions in allowable credit upon finding that there is a material risk that the*
23 *certified reinsurer's obligations will not be paid in full when due.*

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

27 *(A) In this subparagraph, "terminated" means revocation, suspension,*
28 *voluntary surrender and inactive status.*

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

32 *(f) If an applicant for certification has been certified as a reinsurer in an NAIC*
33 *accredited jurisdiction, the commissioner has the discretion to defer to that jurisdiction's*
34 *certification, and has the discretion to defer to the rating assigned by that jurisdiction,*
35 *and such assuming insurer shall be considered to be a certified reinsurer in this state.*

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1 (g) *A certified reinsurer that ceases to assume new business in this state may*
2 *request to maintain its certification in inactive status in order to continue to qualify for a*
3 *reduction in security for its in-force business. An inactive certified reinsurer shall*
4 *continue to comply with all applicable requirements of this paragraph, and the*
5 *commissioner shall assign a rating that takes into account, if relevant, the reasons why the*
6 *reinsurer is not assuming new business.*

7 V. Credit shall be allowed when the reinsurance is ceded to an assuming insurer not
8 meeting the requirements of paragraphs I, II, III ~~or~~ IV, **or IV-a** but only with respect to the
9 insurance of risks located in the jurisdictions where the reinsurance is required by applicable law or
10 regulation of that jurisdiction.

11 VI. If the assuming insurer is not licensed ~~or~~, accredited, **or certified** to transact
12 insurance or reinsurance in this state, ~~then~~ the credit permitted by paragraphs III and IV shall not
13 be allowed unless the assuming insurer agrees in the reinsurance agreements:

14 (a) That in the event of the failure of the assuming insurer to perform its obligations
15 under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding
16 insurer:

17 (1) Shall submit to the jurisdiction of any court of competent jurisdiction in any state
18 of the United States;

19 (2) Shall comply with all requirements necessary to give such court jurisdiction; and

20 (3) Shall abide by the final decision of such court or of any appellate court in the
21 event of an appeal.

22 (b) To designate the commissioner or a designated attorney as its true and lawful
23 attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by
24 or on behalf of the ceding ~~company~~ **insurer**.

25 (c) This paragraph ~~shall not~~ **is not intended to** conflict with or override the obligation
26 of the parties to a reinsurance agreement to arbitrate their disputes, if this obligation is created in
27 the agreement.

28 ~~[(d) Before any unauthorized reinsurer files or causes to be filed any pleading in any~~
29 ~~court action or an appearance in response to any court action or administrative proceeding, such~~
30 ~~reinsurer shall either:~~

31 ~~(1) Deposit with the clerk of the court in which such action, suit, or proceeding is~~
32 ~~pending, or with the commissioner in administrative proceedings, cash or securities or bond with~~
33 ~~good and sufficient sureties to be approved by the court, or the commissioner, in an amount to be~~
34 ~~fixed by the court or the commissioner sufficient to secure the payment of any final judgment which~~
35 ~~may be rendered in such court proceeding or in such administrative proceeding; or~~

36 ~~(2) Procure a license to transact reinsurance business in this state.~~

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1 ~~(e) The court in any action, suit, or proceeding or the commissioner in any~~
2 ~~administrative proceeding referred to in subparagraph (d), may, in its or his or her discretion, order~~
3 ~~such postponement as may be necessary to afford the reinsurer reasonable opportunity to comply~~
4 ~~with subparagraph (d) and to defend such court action or administrative proceeding.]~~

5 235:4 Reinsurance; Nonlicensed or Accredited Insurer. Amend the introductory paragraph of
6 RSA 405:48 to read as follows:

7 If the assuming insurer does not meet the requirements of RSA 405:47, I-III, the credit
8 permitted by RSA 405:47, **IV and IV-a** shall not be allowed unless the assuming insurer agrees in
9 the trust agreements to the following conditions:

10 235:5 Reinsurance; Nonlicensed or Accredited Insurer. Amend RSA 405:48, III to read as
11 follows:

12 III. If the commissioner with regulatory oversight [~~over the trust~~] determines that the assets
13 of the trust fund or any part thereof are not necessary to satisfy the claims of the U.S. ceding
14 insurers of the grantor of the trust, the assets or part thereof shall be returned by the commissioner
15 with regulatory oversight to the trustee for distribution in accordance with the trust agreement.

16 235:6 Reinsurance. RSA 405:49 through RSA 405:52-a are repealed and reenacted to read as
17 follows:

18 405:49 Suspension; Concentration Risk.

19 I. If an accredited or certified reinsurer ceases to meet the requirements for accreditation or
20 certification, the commissioner may suspend or revoke the reinsurer's accreditation or certification.

21 (a) The commissioner shall give the reinsurer notice and opportunity for hearing. The
22 suspension or revocation shall not take effect until after the commissioner's order on hearing, unless:

23 (1) The reinsurer waives its right to a hearing;

24 (2) The commissioner's order is based on regulatory action by the reinsurer's
25 domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to
26 transact insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying
27 state of the reinsurer under RSA 405:47, IV-a; or

28 (3) The commissioner finds that an emergency requires immediate action and a court
29 of competent jurisdiction has not stayed the commissioner's action.

30 (b) While a reinsurer's accreditation or certification is suspended, no reinsurance
31 contract issued or renewed after the effective date of the suspension qualified for credit except to the
32 extent that the reinsurer's obligations under the contract are secured in accordance with
33 RSA 405:50. If a reinsurer's accreditation or certification is revoked, no credit for reinsurance may
34 be granted after the effective date of the revocation except to the extent that the reinsurer's
35 obligations under the contract are secured in accordance with RSA 405:47, IV-a(e) and RSA 405:50.

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

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

15 405:50 Asset or Reduction From Liability for Reinsurance Ceded by a Domestic Insurer to an
16 Assuming Insurer Not Meeting the Requirements of RSA 405:47. An asset or a reduction from
17 liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the
18 requirements of RSA 405:47 shall be allowed in an amount not exceeding the liabilities carried by
19 the ceding insurer. The reduction shall be in the amount of funds held by or on behalf of the ceding
20 insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with the
21 assuming insurer as security for the payment of obligations under such contract, if the security is
22 held in the United States subject to withdrawal solely by, and under the exclusive control of, the
23 ceding insurer; or, in the case of a trust, held in a qualified United States financial institution, as
24 defined in RSA 405:46, III. This security may be in the form of:

25 I. Cash.

26 II. Securities listed by the Securities Valuation Office of the National Association of
27 Insurance Commissioners, including those deemed exempt from filing as defined by the Purposes
28 and Procedures Manual of the Securities Valuation Office, and qualifying as admitted assets.

29 III.(a) Clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified
30 United States financial institution, as defined in RSA 405:46, II effective no later than December 31,
31 of the year for which filing is being made, and in the possession of, or in trust for, the ceding insurer
32 on or before the filing date of its annual statement;

33 (b) Letters of credit meeting applicable standards of issuer acceptability as of the dates
34 of their issuance or confirmation shall, notwithstanding the issuing or confirming institution's
35 subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as

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1 security until their expiration, extension, renewal, modification, or amendment, whichever first
2 occurs.

3 IV. Any other form of security acceptable to the commissioner.

4 405:51 Rulemaking. The commissioner may adopt rules, pursuant to RSA 541-A, implementing
5 the provisions of this subdivision.

6 405:52 Reinsurance Agreements Affected. Credit for reinsurance ceded to a certified reinsurer
7 is allowed only for reinsurance contracts entered into or renewed on or after the effective date of the
8 certification of the assuming insurer by the insurance commissioner.

9 235:7 Effective Date. This act shall take effect 60 days after its passage.

10

11 Approved: July 15, 2013

12 Effective Date: September 13, 2013