

By: Representative Chism

To: Insurance

HOUSE BILL NO. 408

1 AN ACT TO AMEND SECTIONS 83-19-151 AND 83-19-157, MISSISSIPPI  
2 CODE OF 1972, TO PROVIDE A DEFINITION OF A RECIPROCAL  
3 JURISDICTION; TO PROVIDE REQUIREMENTS FOR CREDIT FOR REINSURANCE;  
4 AND FOR RELATED PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 **SECTION 1.** Section 83-19-151, Mississippi Code of 1972, is  
7 amended as follows:

8 83-19-151. Credit for reinsurance shall be allowed a  
9 domestic ceding insurer as either an asset or a deduction from  
10 liability on account of reinsurance ceded only when the reinsurer  
11 meets the requirements of paragraph (a), (b), (c), (d), (e) \* \* \*,  
12 (f) or (g) of this section; provided further that the commissioner  
13 may adopt by regulation pursuant to Section 83-19-157 specific  
14 additional requirements relating to or setting forth the valuation  
15 of assets or reserve credits, the amount and forms of security  
16 supporting reinsurance arrangements described in Section  
17 83-19-157, and/or the circumstances pursuant to which credit will  
18 be reduced or eliminated. Credit shall be allowed under paragraph  
19 (a), (b) or (c) of this section only as respects cessions of those



20 kinds or classes of business which the assuming insurer is  
21 licensed or otherwise permitted to write or assume in its state of  
22 domicile or, in the case of a United States branch of an alien  
23 assuming insurer, in the state through which it is entered and  
24 licensed to transact insurance or reinsurance. Credit shall be  
25 allowed under paragraph (c) or (d) of this section only if the  
26 applicable requirements of paragraph \* \* \* (h) have been  
27 satisfied.

28 (a) Credit shall be allowed when the reinsurance is  
29 ceded to an assuming insurer which is licensed to transact  
30 insurance or reinsurance in this state.

31 (b) Credit shall be allowed when the reinsurance is  
32 ceded to an assuming insurer which is accredited as a reinsurer in  
33 this state. In order to be eligible for accreditation, a  
34 reinsurer must:

35 (i) Files with the commissioner evidence of its  
36 submission to this state's jurisdiction;

37 (ii) Submits to this state's authority to examine  
38 its books and records;

39 (iii) Be licensed to transact insurance or  
40 reinsurance in at least one (1) state, or in the case of a United  
41 States branch of an alien assuming insurer, be entered through and  
42 licensed to transact insurance or reinsurance in at least one (1)  
43 state;



44 (iv) Files annually with the commissioner a copy  
45 of its annual statement filed with the Insurance Department of its  
46 state of domicile and a copy of its most recent audited financial  
47 statement; and

48 (v) Demonstrate to the satisfaction of the  
49 commissioner that it has adequate financial capacity to meet its  
50 reinsurance obligations and is otherwise qualified to assume  
51 reinsurance from domestic insurers. An assuming insurer is deemed  
52 to meet this requirement as of the time of its application if it  
53 maintains a surplus as regards policyholders in an amount not less  
54 than Twenty Million Dollars (\$20,000,000.00) and its accreditation  
55 has not been denied by the commissioner within ninety (90) days  
56 after submission of its application.

57 (c) (i) Credit shall be allowed when the reinsurance  
58 is ceded to an assuming insurer which is domiciled and licensed  
59 in, or in the case of a United States branch of an alien assuming  
60 insurer is entered through, a state which employs standards  
61 regarding credit for reinsurance substantially similar to those  
62 applicable under this statute and the assuming insurer or United  
63 States branch of an alien assuming insurer:

64 1. Maintains a surplus as regards  
65 policyholders in an amount not less than Twenty Million Dollars  
66 (\$20,000,000.00); and

67 2. Submits to the authority of this state to  
68 examine its books and records.



69 (ii) The requirement of item 1 of this paragraph  
70 (c)(i) does not apply to reinsurance ceded and assumed pursuant to  
71 pooling arrangements among insurers in the same holding company  
72 system.

73 (d) (i) Credit shall be allowed when the reinsurance  
74 is ceded to an assuming insurer which maintains a trust fund in a  
75 qualified United States financial institution, as defined in  
76 paragraph (b) of Section 83-19-155, for the payment of the valid  
77 claims of its United States ceding insurers, their assigns and  
78 successors in interest. To enable the commissioner to determine  
79 the sufficiency of the trust fund, the assuming insurer shall  
80 report annually to the commissioner information substantially the  
81 same as that required to be reported on the National Association  
82 of Insurance Commissioners annual statement form by licensed  
83 insurers. The assuming insurer shall submit to examination of its  
84 books and records by the commissioner and bear the expense of  
85 examination.

86 (ii) 1. Credit for reinsurance shall not be  
87 granted under this subsection unless the form of the trust and any  
88 amendments to the trust have been approved by:

89 a. The commissioner of the state where  
90 the trust is domiciled; or

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



94                   2. The form of the trust and any trust  
95 amendments also shall be filed with the commissioner of every  
96 state in which the ceding insurer beneficiaries of the trust are  
97 domiciled. The trust instrument shall provide that contested  
98 claims shall be valid and enforceable upon the final order of any  
99 court of competent jurisdiction in the United States. The trust  
100 shall vest legal title to its assets in its trustees for the  
101 benefit of the assuming insurer's United States ceding insurers,  
102 their assigns and successors in interest. The trust and the  
103 assuming insurer shall be subject to examination as determined by  
104 the commissioner.

105                   3. The trust shall remain in effect for as  
106 long as the assuming insurer has outstanding obligations due under  
107 the reinsurance agreements subject to the trust. No later than  
108 February 28 of each year the trustee of the trust shall report to  
109 the commissioner in writing the balance of the trust and listing  
110 the trust's investments at the preceding year-end and shall  
111 certify the date of termination of the trust, if so planned, or  
112 certify that the trust will not expire prior to the following  
113 December 31.

114                   (iii) The following requirements apply to the  
115 following categories of assuming insurer:

116                   1. The trust fund for a single assuming  
117 insurer shall consist of funds in trust in an amount not less than  
118 the assuming insurer's liabilities attributable to reinsurance



119 ceded by United States ceding insurers, and, in addition, the  
120 assuming insurer shall maintain a trusteed surplus of not less  
121 than Twenty Million Dollars (\$20,000,000.00) except as provided in  
122 item 2 of this paragraph (d)(iii).

123           2. At any time after the assuming insurer has  
124 permanently discontinued underwriting new business secured by the  
125 trust for at least three (3) full years, the commissioner with  
126 principal regulatory oversight of the trust may authorize a  
127 reduction in the required trusteed surplus, but only after a  
128 finding, based on an assessment of the risk, that the new required  
129 surplus level is adequate for the protection of United States  
130 ceding insurers, policyholders and claimants in light of  
131 reasonably foreseeable adverse loss development. The risk  
132 assessment may involve an actuarial review, including an  
133 independent analysis of reserves and cash flows, and shall  
134 consider all material risk factors, including when applicable the  
135 lines of business involved, the stability of the incurred loss  
136 estimates and the effect of the surplus requirements on the  
137 assuming insurer's liquidity or solvency. The minimum required  
138 trusteed surplus may not be reduced to an amount less than thirty  
139 percent (30%) of the assuming insurer's liabilities attributable  
140 to reinsurance ceded by United States ceding insurers covered by  
141 the trust.

142           3. a. In the case of a group including  
143 incorporated and individual unincorporated underwriters:



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

151                   B. For reinsurance ceded under  
152 reinsurance agreements with an inception date on or before  
153 December 31, 1992, and not amended or renewed after that date,  
154 notwithstanding the other provisions of Sections 83-19-151 through  
155 83-19-157, the trust shall consist of a trustee account in an  
156 amount not less than the respective underwriters' several  
157 insurance and reinsurance liabilities attributable to business  
158 written in the United States; and

159                   C. In addition to these trusts, the  
160 group shall maintain in trust a trustee surplus of which One  
161 Hundred Million Dollars (\$100,000,000.00) shall be held jointly  
162 for the benefit of the United States domiciled ceding insurers of  
163 any member of the group for all years of account; and

164                   b. The incorporated members of the group  
165 shall not be engaged in any business other than underwriting as a  
166 member of the group and shall be subject to the same level of  
167 regulation and solvency control by the group's domiciliary  
168 regulator as are the unincorporated members.



169                   c. Within ninety (90) days after its  
170 financial statements are due to be filed with the group's  
171 domiciliary regulator, the group shall provide to the commissioner  
172 an annual certification by the group's domiciliary regulator of  
173 the solvency of each underwriter member; or if a certification is  
174 unavailable, financial statements, prepared by independent public  
175 accountants, of each underwriter member of the group.

176                   (iv) In the case of a group of incorporated  
177 underwriters under common administration, the group shall:

178                   1. Have continuously transacted an insurance  
179 business outside the United States for at least three (3) years  
180 immediately prior to making application for accreditation;

181                   2. Maintain aggregate policyholders' surplus  
182 of at least Ten Billion Dollars (\$10,000,000,000.00);

183                   3. Maintain a trust fund in an amount not  
184 less than the group's several liabilities attributable to business  
185 ceded by United States domiciled ceding insurers to any member of  
186 the group pursuant to reinsurance contracts issued in the name of  
187 the group;

188                   4. In addition, maintain a joint trusted  
189 surplus of which One Hundred Million Dollars (\$100,000,000.00)  
190 shall be held jointly for the benefit of United States domiciled  
191 ceding insurers of any member of the group as additional security  
192 for these liabilities; and





193                   5. Within ninety (90) days after its  
194 financial statements are due to be filed with the group's  
195 domiciliary regulator, make available to the commissioner an  
196 annual certification of each underwriter member's solvency by the  
197 member's domiciliary regulator and financial statements of each  
198 underwriter member of the group prepared by its independent public  
199 accountant.

200                   (e) Credit shall be allowed when the reinsurance is  
201 ceded to an assuming insurer that has been certified by the  
202 commissioner as a reinsurer in this state and secures its  
203 obligations in accordance with the requirements of this  
204 subsection.

205                   (i) In order to be eligible for certification, the  
206 assuming insurer shall meet the following requirements:

207                   1. The assuming insurer must be domiciled and  
208 licensed to transact insurance or reinsurance in a qualified  
209 jurisdiction, as determined by the commissioner pursuant to  
210 subparagraph (iii) of this paragraph (e);

211                   2. The assuming insurer must maintain minimum  
212 capital and surplus, or its equivalent, in an amount to be  
213 determined by the commissioner pursuant to regulation;

214                   3. The assuming insurer must maintain  
215 financial strength ratings from two (2) or more rating agencies  
216 deemed acceptable by the commissioner pursuant to regulation;



217                   4. The assuming insurer must agree to submit  
218 to the jurisdiction of this state, appoint the commissioner as its  
219 agent for service of process in this state, and agree to provide  
220 security for one hundred percent (100%) of the assuming insurer's  
221 liabilities attributable reinsurance ceded by United States ceding  
222 insurers if it resists enforcement of a final United States  
223 judgment;

224                   5. The assuming insurer must agree to meet  
225 applicable information filing requirements as determined by the  
226 commissioner, both with respect to an initial application for  
227 certification and on an ongoing basis; and

228                   6. The assuming insurer must satisfy any  
229 other requirements for certification deemed relevant by the  
230 commissioner.

231                   (ii) An association including incorporated and  
232 individual unincorporated underwriters may be a certified  
233 reinsurer. In order to be eligible for certification, in addition  
234 to satisfying requirements of subparagraph (i) of this paragraph  
235 (e):

236                   1. The association shall satisfy its minimum  
237 capital and surplus requirements through the capital and surplus  
238 equivalents (net of liabilities) of the association and its  
239 members, which shall include a joint central fund that may be  
240 applied to any unsatisfied obligation of the association or any of



241 its members, in an amount determined by the commissioner to  
242 provide adequate protection;

243                   2. The incorporated members of the  
244 association shall not be engaged in any business other than  
245 underwriting as a member of the association and shall be subject  
246 to the same level of regulation and solvency control by the  
247 association's domiciliary regulator as are the unincorporated  
248 members; and

249                   3. Within ninety (90) days after its  
250 financial statements are due to be filed with the association's  
251 domiciliary regulator, the association shall provide to the  
252 commissioner an annual certification by the association's  
253 domiciliary regulator of the solvency of each underwriter member;  
254 or if a certification is unavailable, financial statements,  
255 prepared by independent public accountants, of each underwriter  
256 member of the association.

257                   (iii) The commissioner shall create and publish a  
258 list of qualified jurisdictions, under which an assuming insurer  
259 licensed and domiciled in such jurisdiction is eligible to be  
260 considered for certification by the commissioner as a certified  
261 reinsurer.

262                   1. In order to determine whether the  
263 domiciliary jurisdiction of a non-United States assuming insurer  
264 is eligible to be recognized as a qualified jurisdiction, the  
265 commissioner shall evaluate the appropriateness and effectiveness



266 of the reinsurance supervisory system of the jurisdiction, both  
267 initially and on an ongoing basis, and consider the rights,  
268 benefits and the extent of reciprocal recognition afforded by the  
269 non-United States jurisdiction to reinsurers licensed and  
270 domiciled in the United States. A qualified jurisdiction must  
271 agree to share information and cooperate with the commissioner  
272 with respect to all certified reinsurers domiciled within that  
273 jurisdiction. A jurisdiction may not be recognized as a qualified  
274 jurisdiction if the commissioner has determined that the  
275 jurisdiction does not adequately and promptly enforce final United  
276 States judgments and arbitration awards. Additional factors may  
277 be considered in the discretion of the commissioner.

278           2. A list of qualified jurisdictions shall be  
279 published through the NAIC Committee Process. The commissioner  
280 shall consider this list in determining qualified jurisdictions.  
281 If the commissioner approves a jurisdiction as qualified that does  
282 not appear on the list of qualified jurisdictions, the  
283 commissioner shall provide thoroughly documented justification in  
284 accordance with criteria to be developed under regulations.

285           3. United States jurisdictions that meet the  
286 requirement for accreditation under the NAIC Financial Regulation  
287 Standards and Accreditation Program shall be recognized as  
288 qualified jurisdictions.

289           4. If a certified reinsurer's domiciliary  
290 jurisdiction ceases to be a qualified jurisdiction, the



291 commissioner has the discretion to suspend the reinsurer's  
292 certification indefinitely, in lieu of revocation.

293 (iv) The commissioner shall assign a rating to  
294 each certified reinsurer, giving due consideration to the  
295 financial strength ratings that have been assigned by rating  
296 agencies deemed acceptable to the commissioner pursuant to  
297 regulation. The commissioner shall publish a list of all  
298 certified reinsurers and their ratings.

299 (v) A certified reinsurer shall secure obligations  
300 assumed from United States ceding insurers under this subsection  
301 at a level consistent with its rating, as specified in regulations  
302 promulgated by the commissioner.

303 1. In order for a domestic ceding insurer to  
304 qualify for full financial statement credit for reinsurance ceded  
305 to a certified reinsurer, the certified reinsurer shall maintain  
306 security in a form acceptable to the commissioner and consistent  
307 with the provisions of Section 83-19-153 or in a multibeneficiary  
308 trust in accordance with paragraph (d) of this subsection, except  
309 as otherwise provided in this subsection.

310 2. If a certified reinsurer maintains a trust  
311 to fully secure its obligations subject to paragraph (d) of this  
312 subsection, and chooses to secure its obligations incurred as a  
313 certified reinsurer in the form of a multibeneficiary trust, the  
314 certified reinsurer shall maintain separate trust accounts for its  
315 obligations incurred under reinsurance agreements issued or



316 renewed as a certified reinsurer with reduced security as  
317 permitted by this subsection or comparable laws of other United  
318 States jurisdictions and for its obligations subject to paragraph  
319 (d) of this subsection. It shall be a condition to the grant of  
320 certification under this paragraph (e) that the certified  
321 reinsurer shall have bound itself, by the language of the trust  
322 and agreement with the commissioner with principal regulatory  
323 oversight of each such trust account, to fund, upon termination of  
324 any such trust account, out of the remaining surplus of such trust  
325 any deficiency of any other such trust account.

326           3. The minimum trustee surplus requirements  
327 provided in paragraph (d) of this subsection are not applicable  
328 with respect to a multibeneficiary trust maintained by a certified  
329 reinsurer for the purpose of securing obligations incurred under  
330 this subsection, except that such trust shall maintain a minimum  
331 trustee surplus of Ten Million Dollars (\$10,000,000.00).

332           4. With respect to obligations incurred by a  
333 certified reinsurer under this subsection, if the security is  
334 insufficient, the commissioner shall reduce the allowable credit  
335 by an amount proportionate to the deficiency, and has the  
336 discretion to impose further reductions in allowable credit upon  
337 finding that there is a material risk that the certified  
338 reinsurer's obligations will not be paid in full when due.

339           5. For purposes of this subsection, a  
340 certified reinsurer whose certification has been terminated for



341 any reason shall be treated as a certified reinsurer required to  
342 secure one hundred percent (100%) of its obligations.

343                   6. As used in this subsection, the term  
344 "terminated" refers to revocation, suspension, voluntary surrender  
345 and inactive status.

346                   7. If the commissioner continues to assign a  
347 higher rating as permitted by other provisions of this section,  
348 this requirement does not apply to a certified reinsurer in  
349 inactive status or to a reinsurer whose certification has been  
350 suspended.

351                   (vi) If an applicant for certification has been  
352 certified as a reinsurer in an NAIC accredited jurisdiction, the  
353 commissioner has the discretion to defer to that jurisdiction's  
354 certification, and has the discretion to defer to the rating  
355 assigned by that jurisdiction, and such assuming insurer shall be  
356 considered to be a certified reinsurer in this state.

357                   (vii) A certified reinsurer that ceases to assume  
358 new business in this state may request to maintain its  
359 certification in inactive status in order to continue to qualify  
360 for a reduction in security for its in-force business. An  
361 inactive certified reinsurer shall continue to comply with all  
362 applicable requirements of this subsection, and the commissioner  
363 shall assign a rating that takes into account, if relevant, the  
364 reasons why the reinsurer is not assuming new business.



365           (f) (i) Credit shall be allowed when the reinsurance  
366 is ceded to an assuming insurer meeting each of the conditions set  
367 forth below.

368                   1. The assuming insurer must have its head  
369 office or be domiciled in, as applicable, and be licensed in a  
370 Reciprocal Jurisdiction. A "Reciprocal Jurisdiction" is a  
371 jurisdiction that meets one (1) of the following:

372                           a. A non-U.S. jurisdiction that is  
373 subject to an in-force covered agreement with the United States,  
374 each within its legal authority, or, in the case of a covered  
375 agreement between the United States and European Union, is a  
376 member state of the European Union. For purposes of this  
377 paragraph (f), a "covered agreement" is an agreement entered into  
378 pursuant to Dodd-Frank Wall Street Reform and Consumer Protection  
379 Act, 31 U.S.C. Sections 313 and 314, that is currently in effect  
380 or in a period of provisional application and addresses the  
381 elimination, under specified conditions, of collateral  
382 requirements as a condition for entering into any reinsurance  
383 agreement with a ceding insurer domiciled in this state or for  
384 allowing the ceding insurer to recognize credit for reinsurance;

385                           b. A U.S. jurisdiction that meets the  
386 requirements for accreditation under the NAIC financial standards  
387 and accreditation program; or

388                           c. A qualified jurisdiction, as  
389 determined by the commissioner pursuant to Section





390 83-19-151(e)(iii) which is not otherwise described in item 1.a. or  
391 1.b. above and which meets certain additional requirements,  
392 consistent with the terms and conditions of in-force covered  
393 agreements, as specified by the commissioner in regulation.

394 2. The assuming insurer must have and  
395 maintain on an ongoing basis minimum capital and surplus, or its  
396 equivalent, calculated according to the methodology of its  
397 domiciliary jurisdiction, in an amount to be determined by the  
398 commissioner pursuant to regulation. If the assuming insurer is  
399 an association, including incorporated and individual  
400 unincorporated underwriters, it must have and maintain on an  
401 ongoing basis minimum capital and surplus equivalents (net of  
402 liabilities), calculated according to the methodology applicable  
403 in its domiciliary jurisdiction, and a central fund containing a  
404 balance in amounts to be determined by the commissioner pursuant  
405 to regulation.

406 3. The assuming insurer must have and  
407 maintain on an ongoing basis a minimum solvency or capital ratio,  
408 as applicable, to be determined by the commissioner pursuant to  
409 regulation. If the assuming reinsurer is an association,  
410 including incorporated and individual unincorporated underwriters,  
411 it must have and maintain on an ongoing basis a minimum solvency  
412 or capital ratio in the Reciprocal Jurisdiction where the assuming  
413 reinsurer has its head office or is domiciled, as applicable, and  
414 is also licensed.



415 4. The assuming insurer must agree and  
416 provide adequate assurance to the commissioner, in a form  
417 specified by the commissioner pursuant to regulation, as follows:

418 a. The assuming insurer must provide  
419 prompt written notice and explanation to the commissioner if it  
420 falls below the minimum requirements set forth in items 2. and 3.  
421 of this subparagraph (i), or if any regulatory action is taken  
422 against it for serious noncompliance with applicable law;

423 b. The assuming insurer must consent in  
424 writing to the jurisdiction of the courts of this state and to the  
425 appointment of the commissioner as agent for service of process.  
426 The commissioner may also require that such consent be provided  
427 and included in each reinsurance agreement under the  
428 commissioner's jurisdiction. Nothing in this provision shall  
429 limit or in any way alter the capacity of parties to a reinsurance  
430 agreement to agree to alternative dispute resolution mechanisms,  
431 except to the extent such agreements are unenforceable under  
432 applicable insolvency or delinquency laws;

433 c. The assuming insurer must consent in  
434 writing to pay all final judgments, wherever enforcement is  
435 sought, obtained by a ceding insurer or its legal successor, that  
436 have been declared enforceable in the jurisdiction where the  
437 judgment was obtained;

438 d. Each reinsurance agreement must  
439 include a provision requiring the assuming reinsurer to provide



440 security in an amount equal to one hundred percent (100%) of the  
441 assuming reinsurer's liabilities attributable to reinsurance ceded  
442 pursuant to that agreement if the assuming reinsurer resists  
443 enforcement of a final judgment that is enforceable under the law  
444 of the jurisdiction in which it was obtained or a properly  
445 enforceable arbitration award, whether obtained by the ceding  
446 insurer or by its legal successor on behalf of its resolution  
447 estate; and

448 e. The assuming insurer must confirm  
449 that it is not presently participating in any solvent scheme of  
450 arrangement which involves this state's ceding insurers, and  
451 agrees to notify the ceding insurer and the commissioner and to  
452 provide security in an amount equal to one hundred percent (100%)  
453 of the assuming insurer's liabilities to the ceding insurer,  
454 should the assuming insurer enter into such a solvent scheme of  
455 arrangement. Such security shall be in a form consistent with the  
456 provisions of Section 83-19-151(e) and Section 83-19-153 and as  
457 specified by the commissioner's regulation.

458 5. The assuming insurer or its legal  
459 successor must provide, if requested by the commissioner, on  
460 behalf of itself and any legal predecessors, certain documentation  
461 to the commissioner as specified by the commissioner in  
462 regulation.



463 6. The assuming insurer must maintain a  
464 practice of prompt payment of claims under reinsurance agreements,  
465 pursuant to criteria set forth in regulation.

466 7. The assuming insurer's supervisory  
467 authority must confirm to the commissioner on an annual basis, as  
468 of the preceding December 31 or at the annual date otherwise  
469 statutorily reported to the Reciprocal Jurisdiction, that the  
470 assuming reinsurer complies with the requirements set forth in  
471 items 2. and 3.

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

475 (ii) The commissioner shall timely create and  
476 publish a list of Reciprocal Jurisdictions.

477 1. A list of Reciprocal Jurisdictions is  
478 published through the NAIC Committee Process. The commissioner's  
479 list shall include any Reciprocal Jurisdiction as defined under  
480 Section 83-19-151(f)(i)1.a. and b. and shall consider any other  
481 Reciprocal Jurisdiction included on the NAIC list. The  
482 commissioner may approve a jurisdiction that does not appear on  
483 the NAIC list of Reciprocal Jurisdictions in accordance with  
484 criteria to be developed under regulations issued by the  
485 commissioner.

486 2. The commissioner may remove a jurisdiction  
487 from the list of Reciprocal Jurisdictions upon a determination



488 that the jurisdiction no longer meets the requirements of a  
489 Reciprocal Jurisdiction in accordance with a process set forth in  
490 regulations issued by the commissioner, except that the  
491 commissioner shall not remove from the list a Reciprocal  
492 Jurisdiction as defined under Section 83-19-151(f)(i)1.a. and b.  
493 Upon removal of a Reciprocal Jurisdiction from this list credit  
494 for reinsurance ceded to an assuming insurer which has its home  
495 office or is domiciled in that jurisdiction shall be allowed, if  
496 otherwise allowed pursuant to Section 83-19-151.

497 (iii) The commissioner shall timely create and  
498 publish a list of assuming insurers that have satisfied the  
499 conditions set forth in this paragraph (f) and to which cessions  
500 shall be granted credit in accordance with this paragraph (f).  
501 The commissioner may add an assuming insurer to such list if an  
502 NAIC accredited jurisdiction has added such assuming insurer to a  
503 list of such assuming insurers or if, upon initial eligibility,  
504 the assuming insurer submits the information to the commissioner  
505 as required under item (i)4. of this paragraph (f) and complies  
506 with any additional requirements that the commissioner may impose  
507 by regulation, except to the extent that they conflict with an  
508 applicable covered agreement.

509 (iv) If the commissioner determines that an  
510 assuming insurer no longer meets one or more of the requirements  
511 under this paragraph (f), the commissioner may revoke or suspend  
512 the eligibility of the assuming insurer for recognition under this



513 paragraph (f) in accordance with procedures set forth in  
514 regulation.

515 1. While an assuming insurer's eligibility is  
516 suspended, no reinsurance agreement issued, amended or renewed  
517 after the effective date of the suspension qualifies for credit  
518 except to the extent that the assuming insurer's obligations under  
519 the contract are secured in accordance with Section 83-19-153.

520 2. If an assuming insurer's eligibility is  
521 revoked, no credit for reinsurance may be granted after the  
522 effective date of the revocation with respect to any reinsurance  
523 agreements entered into by the assuming insurer, including  
524 reinsurance agreements entered into prior to the date of  
525 revocation, except to the extent that the assuming insurer's  
526 obligations under the contract are secured in a form acceptable to  
527 the commissioner and consistent with the provisions of Section  
528 83-19-153.

529 (v) If subject to a legal process of  
530 rehabilitation, liquidation or conservation, as applicable, the  
531 ceding insurer, or its representative, may seek and, if determined  
532 appropriate by the court in which the proceedings are pending, may  
533 obtain an order requiring that the assuming insurer post security  
534 for all outstanding ceded liabilities.

535 (vi) Nothing in this paragraph (f) shall limit or  
536 in any way alter the capacity of parties to a reinsurance  
537 agreement to agree on requirements for security or other terms in



538 that reinsurance agreement, except as expressly prohibited by this  
539 Section 83-19-151 or other applicable law or regulation.

540 (vii) Credit may be taken under this paragraph (f)  
541 only for reinsurance agreements entered into, amended, or renewed  
542 on or after the effective date of this act, and only with respect  
543 to losses incurred and reserves reported on or after the later of  
544 (i) the date on which the assuming insurer has met all eligibility  
545 requirements pursuant to Section 83-19-151(f)(i), and (ii) the  
546 effective date of the new reinsurance agreement, amendment or  
547 renewal.

548 1. This subparagraph (vii) does not alter or  
549 impair a ceding insurer's right to take credit for reinsurance to  
550 the extent that credit is not available under this paragraph (f),  
551 as long as the reinsurance qualifies for credit under any other  
552 applicable provision of Section 83-19-151.

553 2. Nothing in this paragraph (f) shall  
554 authorize an assuming insurer to withdraw or reduce the security  
555 provided under any reinsurance agreement except as permitted by  
556 the terms of the agreement.

557 3. Nothing in this paragraph (f) shall limit,  
558 or in any way alter, the capacity of parties to any reinsurance  
559 agreement to renegotiate the agreement.

560 ( \* \* \*g) Credit shall be allowed when the reinsurance  
561 is ceded to an assuming insurer not meeting the requirements of  
562 paragraph (a), (b), (c), (d) \* \* \*, (e) or (f) of this subsection,



563 but only as to the insurance of risks located in jurisdictions  
564 where the reinsurance is required by applicable law or regulation  
565 of that jurisdiction.

566 ( \* \* \*h) If the assuming insurer is not licensed,  
567 accredited or certified to transact insurance or reinsurance in  
568 this state, the credit permitted by paragraphs (c) and (d) of this  
569 subsection shall not be allowed unless the assuming insurer agrees  
570 in the reinsurance agreements:

571 (i) 1. That in the event of the failure of the  
572 assuming insurer to perform its obligations under the terms of the  
573 reinsurance agreement, the assuming insurer, at the request of the  
574 ceding insurer, shall submit to the jurisdiction of any court of  
575 competent jurisdiction in any state of the United States, will  
576 comply with all requirements necessary to give the court  
577 jurisdiction, and will abide by the final decision of the court or  
578 of any appellate court in the event of an appeal; and

579 2. To designate the commissioner or a  
580 designated attorney as its true and lawful attorney upon whom may  
581 be served any lawful process in any action, suit or proceeding  
582 instituted by or on behalf of the ceding insurer.

583 (ii) This subsection is not intended to conflict  
584 with or override the obligation of the parties to a reinsurance  
585 agreement to arbitrate their disputes, if this obligation is  
586 created in the agreement.





587 ( \* \* \*i) If the assuming insurer does not meet the  
588 requirements of paragraph (a), (b), \* \* \* (c) or (f) of this  
589 subsection the credit permitted by paragraph (d) or (e) of this  
590 subsection shall not be allowed unless the assuming insurer agrees  
591 in the trust agreements to the following conditions:

592 (i) Notwithstanding any other provisions in the  
593 trust instrument, if the trust fund is inadequate because it  
594 contains an amount less than the amount required by paragraph  
595 (d)(iii) of this subsection, or if the grantor of the trust has  
596 been declared insolvent or placed into receivership,  
597 rehabilitation, liquidation or similar proceedings under the laws  
598 of its state or country of domicile, the trustee shall comply with  
599 an order of the commissioner with regulatory oversight over the  
600 trust or with an order of a court of competent jurisdiction  
601 directing the trustee to transfer to the commissioner with  
602 regulatory oversight all of the assets of the trust fund.

603 (ii) The assets shall be distributed by and claims  
604 shall be filed with and valued by the commissioner with regulatory  
605 oversight in accordance with the laws of the state in which the  
606 trust is domiciled that are applicable to the liquidation of  
607 domestic insurance companies.

608 (iii) If the commissioner with regulatory  
609 oversight determines that the assets of the trust fund or any part  
610 thereof are not necessary to satisfy the claims of the United  
611 States ceding insurers of the grantor of the trust, the assets or



612 part thereof shall be returned by the commissioner with regulatory  
613 oversight to the trustee for distribution in accordance with the  
614 trust agreement.

615 (iv) The grantor shall waive any right otherwise  
616 available to it under United States law that is inconsistent with  
617 this provision.

618 ( \* \* \* j) If an accredited or certified reinsurer  
619 ceases to meet the requirements for accreditation or  
620 certification, the commissioner may suspend or revoke the  
621 reinsurer's accreditation or certification.

622 (i) The commissioner must give the reinsurer  
623 notice and opportunity for hearing. The suspension or revocation  
624 may not take effect until after the commissioner's order on  
625 hearing, unless:

- 626 1. The reinsurer waives its right to hearing;
- 627 2. The commissioner's order is based on  
628 regulatory action by the reinsurer's domiciliary jurisdiction or  
629 the voluntary surrender or termination of the reinsurer's  
630 eligibility to transact insurance or reinsurance business in its  
631 domiciliary jurisdiction or in the primary certifying state of the  
632 reinsurer under paragraph (e) (vi) of this subsection; or
- 633 3. The commissioner finds that an emergency  
634 requires immediate action and a court of competent jurisdiction  
635 has not stayed the commissioner's action.



636 (ii) While a reinsurer's accreditation or  
637 certification is suspended, no reinsurance contract issued or  
638 renewed after the effective date of the suspension qualifies for  
639 credit except to the extent that the reinsurer's obligations under  
640 the contract are secured in accordance with Section 83-19-153. If  
641 a reinsurer's accreditation or certification is revoked, no credit  
642 for reinsurance may be granted after the effective date of the  
643 revocation except to the extent that the reinsurer's obligations  
644 under the contract are secured in accordance with paragraph (e)(v)  
645 of this subsection or Section 83-19-153.

646 ( \* \* \*k) Concentration risk.

647 (i) A ceding insurer shall take steps to manage  
648 its reinsurance recoverables proportionate to its own book of  
649 business. A domestic ceding insurer shall notify the commissioner  
650 within thirty (30) days after reinsurance recoverables from any  
651 single assuming insurer, or group of affiliated assuming insurers,  
652 exceeds fifty percent (50%) of the domestic ceding insurer's  
653 last-reported surplus to policyholders, or after it is determined  
654 that reinsurance recoverables from any single assuming insurer, or  
655 group of affiliated assuming insurers, is likely to exceed this  
656 limit. The notification shall demonstrate that the exposure is  
657 safely managed by the domestic ceding insurer.

658 (ii) A ceding insurer shall take steps to  
659 diversify its reinsurance program. A domestic ceding insurer  
660 shall notify the commissioner within thirty (30) days after ceding



661 to any single assuming insurer, or group of affiliated assuming  
662 insurers, more than twenty percent (20%) of the ceding insurer's  
663 gross written premium in the prior calendar year, or after it has  
664 determined that the reinsurance ceded to any single assuming  
665 insurer, or group of affiliated assuming insurers, is likely to  
666 exceed this limit. The notification shall demonstrate that the  
667 exposure is safely managed by the domestic ceding insurer.

668 **SECTION 2.** Section 83-19-157, Mississippi Code of 1972, is  
669 amended as follows:

670 83-19-157. (1) The commissioner may adopt rules and  
671 regulations implementing the provisions of Sections 83-19-151  
672 through 83-19-157.

673 (2) The commissioner is further authorized to adopt rules  
674 and regulations applicable to reinsurance arrangements described  
675 in paragraph (a) of this subsection (2).

676 (a) A regulation adopted pursuant to this subsection  
677 (2) may apply only to reinsurance relating to:

678 (i) Life insurance policies with guaranteed  
679 nonlevel gross premiums or guaranteed nonlevel benefits;

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

683 (iii) Variable annuities with guaranteed death or  
684 living benefits;

685 (iv) Long-term care insurance policies; or



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

689 (b) A regulation adopted pursuant to paragraph (a) (i)  
690 or (ii) of this subsection (2) may apply to any treaty containing  
691 (i) policies issued on or after January 1, 2015, and/or (ii)  
692 policies issued prior to January 1, 2015, if risk pertaining to  
693 such pre-2015 policies is ceded in connection with the treaty, in  
694 whole or in part, on or after January 1, 2015.

695 (c) A regulation adopted pursuant to this subsection  
696 (2) may require the ceding insurer, in calculating the amounts or  
697 forms of security required to be held under regulations  
698 promulgated under this authority, to use the Valuation Manual  
699 adopted by the NAIC under Section 83-7-23(11) (b) (i), including all  
700 amendments adopted by the NAIC and in effect on the date as of  
701 which the calculation is made, to the extent applicable.

702 (d) A regulation adopted pursuant to this subsection  
703 (2) shall not apply to cessions to an assuming insurer that:

704 (i) Meets the conditions set forth in Section  
705 83-19-151(f) in this state or, if this state has not adopted  
706 provisions substantially equivalent to Section 83-19-151(f), the  
707 assuming insurer is operating in accordance with provisions  
708 substantially equivalent to Section 83-19-151(f) in a minimum of  
709 five (5) other states;



710 ( \* \* \*ii) Is certified in this state or, if this  
711 state has not adopted provisions substantially equivalent to  
712 Section 83-19-151(e), certified in a minimum of five (5) other  
713 states; or

714 ( \* \* \*iii) Maintains at least Two Hundred Fifty  
715 Million Dollars (\$250,000,000.00) in capital and surplus when  
716 determined in accordance with the NAIC Accounting Practices and  
717 Procedures Manual, including all amendments thereto adopted by the  
718 NAIC, excluding the impact of any permitted or prescribed  
719 practices; and is:

720 1. Licensed in at least twenty-six (26)  
721 states; or

722 2. Licensed in at least ten (10) states, and  
723 licensed or accredited in a total of at least thirty-five (35)  
724 states.

725 (e) The authority to adopt regulations pursuant to this  
726 subsection (2) does not limit the commissioner's general authority  
727 to adopt regulations pursuant to subsection (1) of this section.

728 **SECTION 3.** This act shall take effect and be in force from  
729 and after July 1, 2020.

