

**WAC 284-13-535 Trust fund requirements.** (1) Credit for reinsurance is not granted unless the form of the trust and any amendments to the trust have been approved by either the commissioner of the state where the trust is domiciled or the commissioner of another state who, under the terms of the trust instrument, has accepted responsibility for regulatory oversight of the trust. The form of the trust and any trust amendments also must be filed with the commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instruments must provide that:

(a) Contested claims must be valid and enforceable out of funds in trust to the extent remaining unsatisfied thirty days after entry of the final order of any court of competent jurisdiction in the United States.

(b) Legal title to the assets of the trust must be vested in the trustee for the benefit of the grantor's United States ceding insurers, their assigns and successors in interest.

(c) The trust must be subject to examination as determined by the commissioner.

(d) The trust must remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, has outstanding obligations under reinsurance agreements subject to the trust; and

(e) No later than February 28 of each year the trustees of the trust must report to the commissioner in writing setting forth the balance in the trust and listing the trust's investments at the preceding year end, and must certify the date of termination of the trust, if so planned, or certify that the trust does not expire prior to the following December 31.

(2)(a) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by this section or if the grantor(s) of the trust has been declared insolvent or placed in receivership, rehabilitation, liquidation or similar proceedings under the laws of its state or country of domicile, the trustee must comply with an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight over the trust or other designated receiver all of the assets of the trust fund.

(b) The assets must be distributed by and claims must be filed with and valued by the commissioner with regulatory oversight over the trust in accordance with the laws of the state in which the trust is domiciled applicable to the liquidation of insurance companies.

(c) If the commissioner with regulatory oversight over the trust determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the United States beneficiaries of the trust, the commissioner with regulatory oversight over the trust must return the assets, or any part thereof, to the trustee for distribution under the trust agreement.

(d) The grantor must waive any right otherwise available to it under United States law that is inconsistent with this section.

[Statutory Authority: RCW 48.02.060, 48.12.430 (1)(b) and (c), (3)(b), (4), (5), 48.12.480, and 2015 c 63. WSR 15-24-126 (Matter No. R 2015-09), § 284-13-535, filed 12/2/15, effective 1/2/16. Statutory Authority: RCW 48.02.060, 48.12.160 and 1996 c 297 § 2. WSR 97-05-012 (Matter No. R 96-10), § 284-13-535, filed 2/10/97, effective 3/13/97.]