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HOUSE BILL 1077

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State of Washington

64th Legislature

2015 Regular Session

By Representatives Kirby, Ryu, McBride, and Stanford; by request of Insurance Commissioner

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1 AN ACT Relating to credit for reinsurance; adding new sections to  
2 chapter 48.12 RCW; recodifying RCW 48.12.164 and 48.12.166; and  
3 repealing RCW 48.12.154, 48.12.156, 48.12.158, 48.12.160, 48.12.162,  
4 and 48.12.168.

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

6 NEW SECTION. **Sec. 1.** The purpose of this subchapter is to  
7 protect the interest of insureds, claimants, ceding insurers,  
8 assuming insurers, and the public generally. The legislature intends  
9 to ensure adequate regulation of insurers and reinsurers and adequate  
10 protection for those to whom they owe obligations. Therefore, the  
11 legislature provides a mandate that upon the insolvency of a non-  
12 United States insurer or reinsurer that provides security to fund its  
13 United States obligations in accordance with this subchapter, the  
14 assets representing the security must be maintained in the United  
15 States and claims must be filed with and valued by the state  
16 insurance commissioner with regulatory oversight, and the assets  
17 distributed, in accordance with the insurance laws of the state in  
18 which the trust is domiciled that are applicable to the liquidation  
19 of domestic United States insurance companies. The legislature  
20 declares that the matters contained in this subchapter are

1 fundamental to the business of insurance in accordance with 15 U.S.C.  
2 Secs. 1011-1012.

3 NEW SECTION. **Sec. 2.** Credit for reinsurance is allowed a  
4 domestic ceding insurer as either an asset or a reduction from  
5 liability on account of reinsurance ceded only when the reinsurer  
6 meets the requirements of section 3, 4, 5, 6, 7, or 8 of this act.  
7 Credit is allowed under section 3, 4, or 5 of this act only as  
8 respects cessions of those kinds or classes of business which the  
9 assuming insurer is licensed or otherwise permitted to write or  
10 assume in its state of domicile or, in the case of a United States  
11 branch of an alien assuming insurer, in the state through which it is  
12 entered and licensed to transact insurance or reinsurance. Credit is  
13 allowed under section 5 or 6 of this act only if the applicable  
14 requirements of section 9 of this act have been satisfied.

15 NEW SECTION. **Sec. 3.** Credit is allowed when the reinsurance is  
16 ceded to an assuming insurer that is licensed to transact insurance  
17 or reinsurance in this state.

18 NEW SECTION. **Sec. 4.** Credit is allowed when the reinsurance is  
19 ceded to an assuming insurer that is accredited by the commissioner  
20 as a reinsurer in this state. In order to be eligible for  
21 accreditation, a reinsurer must:

22 (1) File with the commissioner evidence of its submission to this  
23 state's jurisdiction;

24 (2) Submit to this state's authority to examine its books and  
25 records;

26 (3) Be licensed to transact insurance or reinsurance in at least  
27 one state, or in the case of a United States branch of an alien  
28 assuming insurer, be entered through and licensed to transact  
29 insurance or reinsurance in at least one state;

30 (4) File annually with the commissioner a copy of its annual  
31 statement filed with the insurance department of its state of  
32 domicile and a copy of its most recent audited financial statement;  
33 and

34 (5) Demonstrate to the satisfaction of the commissioner that it  
35 has adequate financial capacity to meet its reinsurance obligations  
36 and is otherwise qualified to assume reinsurance from domestic  
37 insurers. An assuming insurer meets this requirement as of the time

1 of its application if it maintains a surplus as regards policyholders  
2 in an amount not less than twenty million dollars and its  
3 accreditation has not been denied by the commissioner within ninety  
4 days after submission of its application.

5 NEW SECTION. **Sec. 5.** (1) Credit is allowed when the reinsurance  
6 is ceded to an assuming insurer that is domiciled in, or in the case  
7 of a United States branch of an alien assuming insurer is entered  
8 through, a state that employs standards regarding credit for  
9 reinsurance substantially similar to those applicable under this  
10 statute and the assuming insurer or United States branch of an alien  
11 assuming insurer:

12 (a) Maintains a surplus as regards policyholders in an amount not  
13 less than twenty million dollars; and

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

16 (2) Subsection (1)(a) of this section does not apply to  
17 reinsurance ceded and assumed pursuant to pooling arrangements among  
18 insurers in the same holding company system.

19 NEW SECTION. **Sec. 6.** (1) Credit is allowed when the reinsurance  
20 is ceded to an assuming insurer that maintains a trust fund in a  
21 qualified United States financial institution, as defined in section  
22 14(2) of this act, for the payment of the valid claims of its United  
23 States ceding insurers, their assigns, and successors in interest. To  
24 enable the commissioner to determine the sufficiency of the trust  
25 fund, the assuming insurer must report annually to the commissioner  
26 information substantially the same as that required to be reported on  
27 the national association of insurance commissioners annual statement  
28 form by licensed insurers. The assuming insurer must submit to  
29 examination of its books and records by the commissioner and bear the  
30 expense of examination.

31 (2)(a) Credit for reinsurance shall not be granted under this  
32 section unless the form of the trust and any amendments to the trust  
33 have been approved by:

34 (i) The commissioner of the state where the trust is domiciled;  
35 or

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

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

11 (c) The trust remains in effect for as long as the assuming  
12 insurer has outstanding obligations due under the reinsurance  
13 agreements subject to the trust. By February 28th of each year the  
14 trustee of the trust must report to the commissioner in writing the  
15 balance of the trust and listing the trust's investments at the  
16 preceding year-end and certify the date of termination of the trust,  
17 if so planned, or certify that the trust will not expire prior to the  
18 following December 31st.

19 (3) The following requirements apply to the following categories  
20 of assuming insurer:

21 (a) The trust fund for a single assuming insurer consists of  
22 funds in trust in an amount not less than the assuming insurer's  
23 liabilities attributable to reinsurance ceded by United States ceding  
24 insurers, and, in addition, the assuming insurer must maintain a  
25 trusted surplus of not less than twenty million dollars, except as  
26 provided in (b) of this subsection.

27 (b) At any time after the assuming insurer has permanently  
28 discontinued underwriting new business secured by the trust for at  
29 least three full years, the commissioner with principal regulatory  
30 oversight of the trust may authorize a reduction in the required  
31 trusted surplus, but only after a finding, based on an assessment of  
32 the risk, that the new required surplus level is adequate for the  
33 protection of United States ceding insurers, policyholders, and  
34 claimants in light of reasonably foreseeable adverse loss  
35 development. The risk assessment may involve an actuarial review,  
36 including an independent analysis of reserves and cash flows, and  
37 must consider all material risk factors, including when applicable  
38 the lines of business involved, the stability of the incurred loss  
39 estimates, and the effect of the surplus requirements on the assuming  
40 insurer's liquidity or solvency. The minimum required trusted

1 surplus may not be reduced to an amount less than thirty percent of  
2 the assuming insurer's liabilities attributable to reinsurance ceded  
3 by United States ceding insurers covered by the trust.

4 (c)(i) In the case of a group including incorporated and  
5 individual unincorporated underwriters:

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

12 (B) For reinsurance ceded under reinsurance agreements with an  
13 inception date on or before December 31, 1992, and not amended or  
14 renewed after that date, notwithstanding the other provisions of this  
15 subchapter, the trust must consist of a trustee account in an amount  
16 not less than the respective underwriters' several insurance and  
17 reinsurance liabilities attributable to business written in the  
18 United States; and

19 (C) In addition to these trusts, the group must maintain in trust  
20 a trustee surplus of which one hundred million dollars is held  
21 jointly for the benefit of the United States domiciled ceding  
22 insurers of any member of the group for all years of account.

23 (ii) The incorporated members of the group shall not be engaged  
24 in any business other than underwriting as a member of the group and  
25 are subject to the same level of regulation and solvency control by  
26 the group's domiciliary regulator as are the unincorporated members.

27 (iii) Within ninety days after its financial statements are due  
28 to be filed with the group's domiciliary regulator, the group must  
29 provide to the commissioner an annual certification by the group's  
30 domiciliary regulator of the solvency of each underwriter member; or  
31 if a certification is unavailable, financial statements, prepared by  
32 independent public accountants, of each underwriter member of the  
33 group.

34 (d) In the case of a group of incorporated underwriters under  
35 common administration, the group must:

36 (i) Have continuously transacted an insurance business outside  
37 the United States for at least three years immediately prior to  
38 making application for accreditation;

39 (ii) Maintain aggregate policyholders' surplus of at least ten  
40 billion dollars;

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

5 (iv) In addition, maintain a joint trusted surplus of which one  
6 hundred million dollars is held jointly for the benefit of United  
7 States domiciled ceding insurers of any member of the group as  
8 additional security for these liabilities; and

9 (v) Within ninety days after its financial statements are due to  
10 be filed with the group's domiciliary regulator, make available to  
11 the commissioner an annual certification of each underwriter member's  
12 solvency by the member's domiciliary regulator and financial  
13 statements of each underwriter member of the group prepared by its  
14 independent public accountant.

15 NEW SECTION. **Sec. 7.** Credit is allowed when the reinsurance is  
16 ceded to an assuming insurer that has been certified by the  
17 commissioner as a reinsurer in this state and secures its obligations  
18 in accordance with the requirements of this section.

19 (1) In order to be eligible for certification, the assuming  
20 insurer must meet the following requirements:

21 (a) The assuming insurer must be domiciled and licensed to  
22 transact insurance or reinsurance in a qualified jurisdiction, as  
23 determined by the commissioner pursuant to subsection (3) of this  
24 section;

25 (b) The assuming insurer must maintain minimum capital and  
26 surplus, or its equivalent, in an amount to be determined by the  
27 commissioner by rule;

28 (c) The assuming insurer must maintain financial strength ratings  
29 from two or more rating agencies deemed acceptable by the  
30 commissioner by rule;

31 (d) The assuming insurer must agree to submit to the jurisdiction  
32 of this state, appoint the commissioner as its agent for service of  
33 process in this state, and agree to provide security for one hundred  
34 percent of the assuming insurer's liabilities attributable to  
35 reinsurance ceded by United States ceding insurers if it resists  
36 enforcement of a final United States judgment;

37 (e) The assuming insurer must agree to meet applicable  
38 information filing requirements as determined by the commissioner,

1 both with respect to an initial application for certification and on  
2 an ongoing basis; and

3 (f) The assuming insurer must satisfy any other requirements for  
4 certification deemed relevant by the commissioner.

5 (2) An association including incorporated and individual  
6 unincorporated underwriters may be a certified reinsurer. In order to  
7 be eligible for certification, in addition to satisfying the  
8 requirements of subsection (1) of this section:

9 (a) The association must satisfy its minimum capital and surplus  
10 requirements through the capital and surplus equivalents (net of  
11 liabilities) of the association and its members, which includes a  
12 joint central fund that may be applied to any unsatisfied obligation  
13 of the association or any of its members, in an amount determined by  
14 the commissioner to provide adequate protection;

15 (b) The incorporated members of the association must not be  
16 engaged in any business other than underwriting as a member of the  
17 association and must be subject to the same level of regulation and  
18 solvency control by the association's domiciliary regulator as are  
19 the unincorporated members; and

20 (c) Within ninety days after its financial statements are due to  
21 be filed with the association's domiciliary regulator, the  
22 association must provide to the commissioner an annual certification  
23 by the association's domiciliary regulator of the solvency of each  
24 underwriter member; or if a certification is unavailable, financial  
25 statements, prepared by independent public accountants, of each  
26 underwriter member of the association.

27 (3) The commissioner must create and publish a list of qualified  
28 jurisdictions, under which an assuming insurer licensed and domiciled  
29 in such a jurisdiction is eligible to be considered for certification  
30 by the commissioner as a certified reinsurer.

31 (a) In order to determine whether the domiciliary jurisdiction of  
32 a non-United States assuming insurer is eligible to be recognized as  
33 a qualified jurisdiction, the commissioner must evaluate the  
34 appropriateness and effectiveness of the reinsurance supervisory  
35 system of the jurisdiction, both initially and on an ongoing basis,  
36 and consider the rights, benefits, and the extent of reciprocal  
37 recognition afforded by the non-United States jurisdiction to  
38 reinsurers licensed and domiciled in the United States. A qualified  
39 jurisdiction must agree to share information and cooperate with the  
40 commissioner with respect to all certified reinsurers domiciled

1 within that jurisdiction. A jurisdiction may not be recognized as a  
2 qualified jurisdiction if the commissioner has determined that the  
3 jurisdiction does not adequately and promptly enforce final United  
4 States judgments and arbitration awards. Additional factors may be  
5 considered in the discretion of the commissioner.

6 (b) A list of qualified jurisdictions shall be published through  
7 the national association of insurance commissioners' committee  
8 process. The commissioner must consider this list in determining  
9 qualified jurisdictions. If the commissioner approves a jurisdiction  
10 as qualified that does not appear on the list of qualified  
11 jurisdictions, the commissioner must provide thoroughly documented  
12 justification in accordance with criteria to be developed by rule.

13 (c) United States jurisdictions that meet the requirement for  
14 accreditation under the national association of insurance  
15 commissioners' financial standards and accreditation program must be  
16 recognized as qualified jurisdictions.

17 (d) If a certified reinsurer's domiciliary jurisdiction ceases to  
18 be a qualified jurisdiction, the commissioner has the discretion to  
19 suspend the reinsurer's certification indefinitely in lieu of  
20 revocation.

21 (4) The commissioner must assign a rating to each certified  
22 reinsurer, giving due consideration to the financial strength ratings  
23 that have been assigned by rating agencies deemed acceptable to the  
24 commissioner by rule. The commissioner must publish a list of all  
25 certified reinsurers and their ratings.

26 (5) A certified reinsurer must secure obligations assumed from  
27 United States ceding insurers under this section at a level  
28 consistent with its rating, as specified in rules adopted by the  
29 commissioner.

30 (a) In order for a domestic ceding insurer to qualify for full  
31 financial statement credit for reinsurance ceded to a certified  
32 reinsurer, the certified reinsurer must maintain security in a form  
33 acceptable to the commissioner and consistent with the provisions of  
34 section 13 of this act, or in a multibeneficiary trust in accordance  
35 with section 6 of this act, except as otherwise provided in this  
36 section.

37 (b) If a certified reinsurer maintains a trust to fully secure  
38 its obligations under section 6 of this act, and chooses to secure  
39 its obligations incurred as a certified reinsurer in the form of a  
40 multibeneficiary trust, the certified reinsurer must maintain



1 separate trust accounts for its obligations incurred under  
2 reinsurance agreements issued or renewed as a certified reinsurer  
3 with reduced security as permitted by this section or comparable laws  
4 of other United States jurisdictions and for its obligations under  
5 section 6 of this act. It is a condition to the grant of  
6 certification under this section that the certified reinsurer must  
7 have bound itself, by the language of the trust and agreement with  
8 the commissioner with principal regulatory oversight of each such  
9 trust account, to fund, upon termination of any trust account, out of  
10 the remaining surplus of the trust any deficiency of any other trust  
11 account.

12 (c) The minimum trusteed surplus requirements provided in section  
13 6 of this act are not applicable with respect to a multibeneficiary  
14 trust maintained by a certified reinsurer for the purpose of securing  
15 obligations incurred under this section, except that the trust must  
16 maintain a minimum trusteed surplus of ten million dollars.

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

23 (e) For purposes of this section, a certified reinsurer whose  
24 certification has been terminated for any reason must be treated as a  
25 certified reinsurer required to secure one hundred percent of its  
26 obligations.

27 (i) As used in this section, "terminated" means revocation,  
28 suspension, voluntary surrender, and inactive status.

29 (ii) If the commissioner continues to assign a higher rating as  
30 permitted by this section, this subsection (5)(e) does not apply to a  
31 certified reinsurer in inactive status or to a reinsurer whose  
32 certification has been suspended.

33 (6) If an applicant for certification has been certified as a  
34 reinsurer in a national association of insurance commissioners  
35 accredited jurisdiction, the commissioner has the discretion to defer  
36 to that jurisdiction's certification, and has the discretion to defer  
37 to the rating assigned by that jurisdiction, and the assuming insurer  
38 must be considered to be a certified reinsurer in this state.

39 (7) A certified reinsurer that ceases to assume new business in  
40 this state may request to maintain its certification in inactive

1 status in order to continue to qualify for a reduction in security  
2 for its in-force business. An inactive certified reinsurer must  
3 continue to comply with all applicable requirements of this section,  
4 and the commissioner must assign a rating that takes into account, if  
5 relevant, the reasons why the reinsurer is not assuming new business.

6 NEW SECTION. **Sec. 8.** Credit is allowed when the reinsurance is  
7 ceded to an assuming insurer not meeting the requirements of section  
8 3, 4, 5, 6, or 7 of this act, but only as to the insurance of risks  
9 located in jurisdictions where the reinsurance is required by  
10 applicable law or regulation of that jurisdiction.

11 NEW SECTION. **Sec. 9.** If the assuming insurer is not licensed,  
12 accredited, or certified to transact insurance or reinsurance in this  
13 state, the credit permitted by sections 5 and 6 of this act must not  
14 be allowed unless the assuming insurer agrees in the reinsurance  
15 agreements:

16 (1)(a) That in the event of the failure of the assuming insurer  
17 to perform its obligations under the terms of the reinsurance  
18 agreement, the assuming insurer, at the request of the ceding  
19 insurer, must submit to the jurisdiction of any court of competent  
20 jurisdiction in any state of the United States, will comply with all  
21 requirements necessary to give the court jurisdiction, and will abide  
22 by the final decision of the court or of any appellate court in the  
23 event of an appeal; and

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

28 (2) This section is not intended to conflict with or override the  
29 obligation of the parties to a reinsurance agreement to arbitrate  
30 their disputes, if this obligation is created in the agreement.

31 NEW SECTION. **Sec. 10.** If the assuming insurer does not meet the  
32 requirements of section 3, 4, or 5 of this act, the credit permitted  
33 by section 6 or 7 of this act must not be allowed unless the assuming  
34 insurer agrees in the trust agreements to the following conditions:

35 (1) Notwithstanding any other provisions in the trust instrument,  
36 if the trust fund is inadequate because it contains an amount less  
37 than the amount required by section 6(3) of this act, or if the

1 grantor of the trust has been declared insolvent or placed into  
2 receivership, rehabilitation, liquidation, or similar proceedings  
3 under the laws of its state or country of domicile, the trustee must  
4 comply with an order of the commissioner with regulatory oversight  
5 over the trust or with an order of a court of competent jurisdiction  
6 directing the trustee to transfer to the commissioner with regulatory  
7 oversight all of the assets of the trust fund.

8 (2) The assets must be distributed by and claims must be filed  
9 with and valued by the commissioner with regulatory oversight in  
10 accordance with the laws of the state in which the trust is domiciled  
11 that are applicable to the liquidation of domestic insurance  
12 companies.

13 (3) If the commissioner with regulatory oversight determines that  
14 the assets of the trust fund or any part thereof are not necessary to  
15 satisfy the claims of the United States ceding insurers of the  
16 grantor of the trust, the assets or part thereof must be returned by  
17 the commissioner with regulatory oversight to the trustee for  
18 distribution in accordance with the trust agreement.

19 (4) The grantor must waive any right otherwise available to it  
20 under United States law that is inconsistent with this provision.

21 NEW SECTION. **Sec. 11.** If an accredited or certified reinsurer  
22 ceases to meet the requirements for accreditation or certification,  
23 the commissioner may suspend or revoke the reinsurer's accreditation  
24 or certification.

25 (1) The commissioner must give the reinsurer notice and  
26 opportunity for hearing. The suspension or revocation may not take  
27 effect until after the commissioner's order on hearing, unless:

28 (a) The reinsurer waives its right to hearing;

29 (b) The commissioner's order is based on regulatory action by the  
30 reinsurer's domiciliary jurisdiction or the voluntary surrender or  
31 termination of the reinsurer's eligibility to transact insurance or  
32 reinsurance business in its domiciliary jurisdiction or in the  
33 primary certifying state of the reinsurer under section 7(6) of this  
34 act; or

35 (c) The commissioner finds that an emergency requires immediate  
36 action and a court of competent jurisdiction has not stayed the  
37 commissioner's action.

38 (2) While a reinsurer's accreditation or certification is  
39 suspended, no reinsurance contract issued or renewed after the

1 effective date of the suspension qualifies for credit except to the  
2 extent that the reinsurer's obligations under the contract are  
3 secured in accordance with section 13 of this act. If a reinsurer's  
4 accreditation or certification is revoked, no credit for reinsurance  
5 may be granted after the effective date of the revocation except to  
6 the extent that the reinsurer's obligations under the contract are  
7 secured in accordance with section 7(5) or 13 of this act.

8 NEW SECTION. **Sec. 12.** (1) A ceding insurer must take steps to  
9 manage its reinsurance recoverable proportionate to its own book of  
10 business. A domestic ceding insurer must notify the commissioner  
11 within thirty days after reinsurance recoverables from any single  
12 assuming insurer, or group of affiliated assuming insurers, exceeds  
13 fifty percent of the domestic ceding insurer's last reported surplus  
14 to policyholders, or after it is determined that reinsurance  
15 recoverables from any single assuming insurer, or group of affiliated  
16 assuming insurers, is likely to exceed this limit. The notification  
17 must demonstrate that the exposure is safely managed by the domestic  
18 ceding insurer.

19 (2) A ceding insurer must take steps to diversify its reinsurance  
20 program. A domestic ceding insurer must notify the commissioner  
21 within thirty days after ceding to any single assuming insurer, or  
22 group of affiliated assuming insurers, more than twenty percent of  
23 the ceding insurer's gross written premium in the prior calendar  
24 year, or after it has determined that the reinsurance ceded to any  
25 single assuming insurer, or group of affiliated assuming insurers, is  
26 likely to exceed this limit. The notification must demonstrate that  
27 the exposure is safely managed by the domestic ceding insurer.

28 NEW SECTION. **Sec. 13.** An asset or a reduction from liability  
29 for the reinsurance ceded by a domestic insurer to an assuming  
30 insurer not meeting the requirements of sections 2 through 12 of this  
31 act must be allowed in an amount not exceeding the liabilities  
32 carried by the ceding insurer. The reduction must be in the amount of  
33 funds held by or on behalf of the ceding insurer, including funds  
34 held in trust for the ceding insurer, under a reinsurance contract  
35 with the assuming insurer as security for the payment of obligations  
36 thereunder, if the security is held in the United States subject to  
37 withdrawal solely by, and under the exclusive control of, the ceding  
38 insurer; or, in the case of a trust, held in a qualified United

1 States financial institution, as defined in section 14(2) of this  
2 act. This security may be in the form of:

3 (1) Cash;

4 (2) Securities listed by the securities valuation office of the  
5 national association of insurance commissioners, including those  
6 deemed exempt from filing as defined by the purposes and procedures  
7 manual of the securities valuation office, and qualifying as admitted  
8 assets;

9 (3)(a) Clean, irrevocable, unconditional letters of credit,  
10 issued or confirmed by a qualified United States financial  
11 institution, as defined in section 14(1) of this act, effective no  
12 later than December 31st of the year for which the filing is being  
13 made, and in the possession of, or in trust for, the ceding insurer  
14 on or before the filing date of its annual statement;

15 (b) Letters of credit meeting applicable standards of issuer  
16 acceptability as of the dates of their issuance (or confirmation)  
17 must, notwithstanding the issuing (or confirming) institution's  
18 subsequent failure to meet applicable standards of issuer  
19 acceptability, continue to be acceptable as security until their  
20 expiration, extension, renewal, modification, or amendment, whichever  
21 first occurs; or

22 (4) Any other form of security acceptable to the commissioner.

23 NEW SECTION. **Sec. 14.** (1) For the purposes of section 13(3) of  
24 this act, a "qualified United States financial institution" means an  
25 institution that:

26 (a) Is organized or (in the case of a United States office of a  
27 foreign banking organization) licensed, under the laws of the United  
28 States or any state thereof;

29 (b) Is regulated, supervised, and examined by United States  
30 federal or state authorities having regulatory authority over banks  
31 and trust companies; and

32 (c) Has been determined by either the commissioner or the  
33 securities valuation office of the national association of insurance  
34 commissioners to meet the standards of financial condition and  
35 standing as are considered necessary and appropriate to regulate the  
36 quality of financial institutions whose letters of credit will be  
37 acceptable to the commissioner.

38 (2) A "qualified United States financial institution" means, for  
39 the purposes of those provisions of this subchapter specifying those

1 institutions that are eligible to act as a fiduciary of a trust, an  
2 institution that:

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

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

10 NEW SECTION. **Sec. 15.** The commissioner may adopt rules and  
11 regulations implementing the provisions of this subchapter.

12 NEW SECTION. **Sec. 16.** This act applies to all cessions after  
13 the effective date of this act under reinsurance agreements that have  
14 an inception, anniversary, or renewal date not less than six months  
15 after the effective date of this act.

16 NEW SECTION. **Sec. 17.** RCW 48.12.164 and 48.12.166 are each  
17 recodified as new sections in chapter 48.12 RCW under the subchapter  
18 heading "credit for reinsurance" created in section 18 of this act.

19 NEW SECTION. **Sec. 18.** Sections 1 through 16 of this act are  
20 each added to chapter 48.12 RCW and codified with the subchapter  
21 heading "credit for reinsurance."

22 NEW SECTION. **Sec. 19.** The following acts or parts of acts are  
23 each repealed:

24 (1) RCW 48.12.154 (Rules) and 1997 c 379 s 9;

25 (2) RCW 48.12.156 (Qualified United States financial institution—  
26 Definition) and 1997 c 379 s 2;

27 (3) RCW 48.12.158 (Insolvency of non-United States insurer or  
28 reinsurer—Maintenance of assets—Claims) and 1997 c 379 s 3;

29 (4) RCW 48.12.160 (Credit for reinsurance—Trust fund—Regulatory  
30 oversight) and 1997 c 379 s 6, 1996 c 297 s 1, 1994 c 86 s 1, 1993 c  
31 91 s 2, 1977 ex.s. c 180 s 3, & 1947 c 79 s .12.16;

32 (5) RCW 48.12.162 (Credit for reinsurance—Contract provisions—  
33 After December 31, 1996—Payment—Rights of original insured or  
34 policyholder) and 1997 c 379 s 4; and

1           (6) RCW 48.12.168 (Credit for reinsurance—Foreign ceding insurer)  
2 and 1997 c 379 s 8.

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