Chapter 48.12 RCW
ASSETS AND LIABILITIES

Sections

48.12.010 "Assets" defined.
48.12.020 Nonallowable assets.
48.12.030 Liabilities.
48.12.040 Unearned premium reserve, property, casualty, and surety insurance.
48.12.050 Unearned premium reserve, marine and transportation insurance.
48.12.060 Reserve—Disability insurance.
48.12.070 Loss records.
48.12.080 Increased reserves.
48.12.090 Loss reserves—Liability insurance.
48.12.100 Unallocated liability loss expense.
48.12.110 Schedule of experience.
48.12.140 "Loss payments," "loss expense" defined.
48.12.170 Valuation of bonds.
48.12.180 Valuation of stocks.
48.12.190 Valuation of property.
48.12.200 Valuation of purchase money mortgages.

CREDIT FOR REINSURANCE

48.12.400 Purpose—Intent—Declaration.
48.12.405 Domestic ceding insurer—Asset or reduction from liability—Requirements.
48.12.410 Assuming insurer—Licensed.
48.12.415 Accredited as reinsurer—Assuming insurer—Requirements.
48.12.420 Assuming insurer—Domiciled in this state or state with similar statutes.
48.12.425 Assuming insurer maintains a trust fund—Payment of valid claims—Requirements.
48.12.430 Assuming insurer—Certified as reinsurer—Eligibility requirements—Insurer obligations—Commissioner's duties.
48.12.435 Assuming insurer not meeting certain requirements—Credit restricted.
48.12.440 Assuming insurer not licensed, accredited, or certified—No credit—Exceptions.
48.12.445 Assuming insurer does not meet certain requirements—Trust agreements—Necessary conditions.
48.12.450 Accredited or certified reinsurer does not meet requirements—Commissioner may suspend or revoke.
48.12.455 Ceding insurer—Reinsurance program.
48.12.460 Reinsurance ceded by domestic insurer to assuming insurer not meeting requirements—When asset or reduction from liability allowed.
48.12.462 Reinsurance ceded to an assuming insurer—Reciprocal jurisdictions—Commissioner's duties.
48.12.464 Reinsurance agreements—Commissioner may adopt rules.
48.12.465 Definitions—Apply to RCW 48.12.460(3).
48.12.470 Credit for reinsurance—Accounting or financial statement—After December 31, 1996.

48.12.475 Assuming alien reinsurer—Registration—Requirements—Duties of commissioner—Costs.
48.12.480 Rules.
48.12.499 Application of chapter 63, Laws of 2015.

RCW 48.12.010 "Assets" defined. In any determination of the financial condition of any insurer there shall be allowed as assets only such assets as belong wholly and exclusively to the insurer, which are registered, recorded, or held under the insurer's name, and which consist of:

(1) Cash in the possession of the insurer or in transit under its control, and the true balance of any deposit of the insurer in a solvent bank or trust company;

(2) Investments, securities, properties, and loans acquired or held in accordance with this code, and in connection therewith the following items:

(a) Interest due or accrued on any bond or evidence of indebtedness which is not in default and which is not valued on a basis including accrued interest.

(b) Declared and unpaid dividends on stocks and shares unless such amount has otherwise been allowed as an asset.

(c) Interest due or accrued upon a collateral loan in an amount not to exceed one year's interest thereon.

(d) Interest due or accrued on deposits in solvent banks and trust companies, and interest due or accrued on other assets if such interest is in the judgment of the commissioner a collectible asset.

(e) Interest due or accrued on a mortgage loan, in amount not exceeding in any event the amount, if any, of the difference between the unpaid principal and the value of the property less delinquent taxes thereon; but if any interest on the loan is in default more than one hundred eighty days, or if any interest on the loan is in default and any taxes or any installment thereof on the property are and have been due and unpaid for more than one hundred eighty days, no allowance shall be made for any interest on the loan.

(f) Rent due or accrued on real property if such rent is not in arrears for more than three months;

(3) Premium notes, policy loans, and other policy assets and liens on policies of life insurance, in amount not exceeding the legal reserve and other policy liabilities carried on each individual policy;

(4) The net amount of uncollected and deferred premiums in the case of a life insurer which carries the full annual mean tabular reserve liability;

(5) Premiums in the course of collection, other than for life insurance, not more than ninety days past due, less commissions payable thereon. The foregoing limitation shall not apply to premiums payable directly or indirectly by the United States government or any of its instrumentalities;

(6) Installment premiums other than life insurance premiums, in accordance with regulations prescribed by the commissioner consistent with practice formulated or adopted by the National Association of Insurance Commissioners;

(7) Notes and like written obligations not past due, taken for premiums other than life insurance premiums, on policies permitted to be issued on such basis, to the extent of the unearned premium

reserves carried thereon and unless otherwise required by regulation prescribed by the commissioner;

(8) Reinsurance recoverable subject to *RCW 48.12.160;

(9) Amounts receivable by an assuming insurer representing funds withheld by a solvent ceding insurer under a reinsurance treaty;

(10) Deposits or equities recoverable from underwriting associations, syndicates and reinsurance funds, or from any suspended banking institution, to the extent deemed by the commissioner available for the payment of losses and claims and at values to be determined by him or her;

(11) Electronic and mechanical machines constituting a data processing and accounting system if the cost of such system is at least twenty-five thousand dollars, which cost shall be amortized in full over a period not to exceed three calendar years; and

(12) Other assets, not inconsistent with the foregoing provisions, deemed by the commissioner available for the payment of losses and claims, at values to be determined by him or her. [2009 c 549 s 7052; 2007 c 80 s 2; 1977 ex.s. c 180 s 2; 1963 c 195 s 11; 1947 c 79 s .12.01; Rem. Supp. 1947 s 45.12.01.]

***Reviser's note:** RCW 48.12.160 was repealed by 2015 c 63 s 19.

RCW 48.12.020 Nonallowable assets. In addition to assets impliedly excluded under RCW 48.12.010, the following expressly shall not be allowed as assets in any determination of the financial condition of an insurer:

(1) Goodwill, except in accordance with regulations prescribed by the commissioner, trade names, agency plants and other like intangible assets.

(2) Prepaid or deferred charges for expenses and commissions paid by the insurer.

(3) Advances to officers (other than policy loans or loans made pursuant to RCW 48.07.130), whether secured or not, and advances to employees, agents and other persons on personal security only.

(4) Stock of such insurer, owned by it, or any equity therein or loans secured thereby, or any proportionate interest in such stock through the ownership by such insurer of an interest in another firm, corporation or business unit.

(5) Furniture, furnishings, fixtures, safes, equipment, vehicles, library, stationery, literature, and supplies; except, electronic and mechanical machines authorized by subsection (11) of RCW 48.12.010, or such personal property as the insurer is permitted to hold pursuant to paragraph (e) of subsection (2) of *RCW 48.13.160, or which is acquired through foreclosure of chattel mortgages acquired pursuant to *RCW 48.13.150, or which is reasonably necessary for the maintenance and operation of real estate lawfully acquired and held by the insurer other than real estate used by it for home office, branch office, and similar purposes.

(6) The amount, if any, by which the aggregate book value of investments as carried in the ledger assets of the insurer exceeds the aggregate value thereof as determined under this code. [1982 c 218 s 1; 1963 c 195 s 12; 1947 c 79 s .12.02; Rem. Supp. 1947 s 45.12.02.]

***Reviser's note:** RCW 48.13.150 and 48.13.160 were repealed by 2011 c 188 s 22, effective July 1, 2012.

Severability—1982 c 218: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 218 s 7.]

RCW 48.12.030 Liabilities. In any determination of the financial condition of an insurer, liabilities to be charged against its assets shall include:

(1) The amount of its capital stock outstanding, if any; and

(2) The amount, estimated consistent with the provisions of this chapter, necessary to pay all of its unpaid losses and claims incurred on or prior to the date of statement, whether reported or unreported, together with the expense of adjustment or settlement thereof; and

(3) With reference to life and disability insurance, and annuity contracts,

(a) the amount of reserves on life insurance policies and annuity contracts in force (including disability benefits for both active and disabled lives, and accidental death benefits, in or supplementary thereto) and disability insurance, valued according to the tables of mortality, tables of morbidity, rates of interest, and methods adopted pursuant to this chapter which are applicable thereto; and

(b) any additional reserves which may be required by the commissioner, consistent with practice formulated or approved by the National Association of Insurance Commissioners, on account of such insurances; and

(4) With reference to insurances other than those specified in subdivision (3) of this section, and other than title insurance, the amount of reserves equal to the unearned portions of the gross premiums charged on policies in force, computed in accordance with this chapter; and

(5) Taxes, expenses, and other obligations accrued at the date of the statement; and

(6) Any additional reserve set up by the insurer for a specific liability purpose or required by the commissioner consistent with practices adopted or approved by the National Association of Insurance Commissioners. [1973 1st ex.s. c 162 s 1; 1947 c 79 s .12.03; Rem. Supp. 1947 s 45.12.03.]

RCW 48.12.040 Unearned premium reserve, property, casualty, and surety insurance. (1) With reference to insurances against loss or damage to property, except as provided in RCW 48.12.050, and with reference to all general casualty insurances, and surety insurances, every insurer shall maintain an unearned premium reserve on all policies in force.

(2) The commissioner may require that such reserve shall be equal to the unearned portions of the gross premiums in force after deducting authorized reinsurance, as computed on each respective risk from the policy's date of issue. If the commissioner does not so require, the portions of the gross premiums in force, less authorized reinsurance, to be held as a premium reserve, shall be computed according to the following table:

Term for which policy was written	Reserve for unearned premium
One year, or less.	1/2

Term for which policy was written	Reserve for unearned premium	
Two years.	First year	3/4
	Second year	1/4
Three years.	First year	5/6
	Second year	1/2
	Third year	1/6
Four years.	First year	7/8
	Second year	5/8
	Third year	3/8
	Fourth year	1/8
Five years.	First year	9/10
	Second year	7/10
	Third year	1/2
	Fourth year	3/10
	Fifth year	1/10
Over five years.	Pro rata	

(3) In lieu of computation according to such table, all of such reserves may be computed, at the insurer's option, on a monthly pro rata basis.

(4) After adopting any one of the methods for computing such reserve an insurer shall not change methods without the commissioner's approval.

(5) If, for certain policies, the insurer's exposure to loss is uneven over the policy term, the commissioner may grant permission to the insurer to use a different method of calculating the unearned premium reserve on those certain policies. [1995 c 35 s 1; 1973 1st ex.s. c 162 s 2; 1947 c 79 s .12.04; Rem. Supp. 1947 s 45.12.04.]

RCW 48.12.050 Unearned premium reserve, marine and transportation insurance. With reference to marine and transportation insurances, premiums on trip risks not terminated shall be deemed unearned and the commissioner may require the insurer to carry a reserve thereon equal to one hundred percent on trip risks written during the month ended as of the date of statement; and computed upon a pro rata basis or, with the commissioner's consent, in accordance with the alternative methods provided in RCW 48.12.040 for all other risks. [1947 c 79 s .12.05; Rem. Supp. 1947 s 45.12.05.]

RCW 48.12.060 Reserve—Disability insurance. For all disability insurance policies the insurer shall maintain an active life reserve which shall place a sound value on its liabilities under such policies and be not less than the reserve according to appropriate standards set forth in regulations issued by the commissioner and, in no event, less in the aggregate than the pro rata gross unearned premiums for such policies. [1973 1st ex.s. c 162 s 3; 1947 c 79 s .12.06; Rem. Supp. 1947 s 45.12.06.]

RCW 48.12.070 Loss records. An insurer shall maintain a complete and itemized record showing all losses and claims as to which it has received notice, including with regard to property, casualty, surety, and marine and transportation insurances, all notices received of the occurrence of any event which may result in a loss. [1947 c 79 s .12.07; Rem. Supp. 1947 s 45.12.07.]

RCW 48.12.080 Increased reserves. (1) If the commissioner determines that an insurer's unearned premium reserves, however computed, are inadequate, he or she may require the insurer to compute such reserves or any part thereof according to such other method or methods as are prescribed in this chapter.

(2) If the loss experience of an insurer shows that its loss reserves, however estimated, are inadequate, the commissioner shall require the insurer to maintain loss reserves in such increased amount as is needed to make them adequate. [2009 c 549 s 7053; 1947 c 79 s . 12.08; Rem. Supp. 1947 s 45.12.08.]

RCW 48.12.090 Loss reserves—Liability insurance. The reserves for outstanding losses and loss expenses under policies of personal injury liability insurance and under policies of employer's liability insurance shall be computed as follows:

(1) The reserves for outstanding losses and loss expenses under policies of personal injury liability insurance and under policies of employer's liability insurance shall be computed in accordance with accepted loss-reserving standards and principles and shall make a reasonable provision for all unpaid loss and loss expense obligations of the insurer under the terms of such policies.

(2) Reserves under liability policies written during the three years immediately preceding the date of determination shall include any additional reserves required by the annual statement instructions of the national association of insurance commissioners. [1995 c 35 s 2; 1947 c 79 s .12.09; Rem. Supp. 1947 s 45.12.09.]

RCW 48.12.100 Unallocated liability loss expense. Subject to any restrictions contained in the annual statement instructions or accounting practices and procedures manuals of the national association of insurance commissioners, all unallocated liability loss expense payments shall be distributed as follows:

(1) All payments associated with particular claims shall be distributed to the year in which the claim was covered; and

(2) All other payments shall be distributed by year in a reasonable manner. [1995 c 35 s 3; 1947 c 79 s .12.10; Rem. Supp. 1947 s 45.12.10.]

RCW 48.12.110 Schedule of experience. Any insurer transacting any liability or workers' compensation insurances shall include in its annual statement filed with the commissioner, a schedule of its experience thereunder in such form as the commissioner may prescribe. [1987 c 185 s 19; 1947 c 79 s .12.11; Rem. Supp. 1947 s 45.12.11.]

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

RCW 48.12.140 "Loss payments," "loss expense" defined. "Loss payments" and "loss expense payments" as used with reference to liability and workers' compensation insurances shall include all payments to claimants, payments for medical and surgical attendance, legal expenses, salaries and expenses of investigators, adjusters and

claims field representatives, rents, stationery, telegraph and telephone charges, postage, salaries and expenses of office employees, home office expenses and all other payments made on account of claims, whether such payments are allocated to specific claims or are unallocated. [2009 c 549 s 7054; 1987 c 185 s 22; 1947 c 79 s .12.14; Rem. Supp. 1947 s 45.12.14.]

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

RCW 48.12.170 Valuation of bonds. (1) All bonds or other evidences of debt having a fixed term and rate held by any insurer may, if amply secured and not in default as to principal or interest, be valued as follows:

(a) If purchased at par, at the par value.

(b) If purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at the earliest date callable at par or maturing at par and so as to yield in the meantime the effective rate of interest at which the purchase was made; or in lieu of such method, according to such accepted method of valuation as is approved by the commissioner.

(c) Purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase.

(d) Unless otherwise provided by a valuation established or approved by the National Association of Insurance Commissioners, no such security shall be carried at above call price for the entire issue during any period within which the security may be so called.

(2) Such securities not amply secured or in default as to principal or interest shall be carried at market value.

(3) The commissioner shall have full discretion in determining the method of calculating values according to the rules set forth in this section, and not inconsistent with any such methods then currently formulated or approved by the National Association of Insurance Commissioners. [1947 c 79 s .12.17; Rem. Supp. 1947 s 45.12.17.]

RCW 48.12.180 Valuation of stocks. (1) Securities, other than those referred to in RCW 48.12.170, held by an insurer shall be valued, in the discretion of the commissioner, at their market value, or at their appraised value, or at prices determined by him or her as representing their fair market value.

(2) Preferred or guaranteed stocks or shares while paying full dividends may be carried at a fixed value in lieu of market value, at the discretion of the commissioner and in accordance with such method of computation as he or she may approve.

(3) The stock of a subsidiary of an insurer shall be valued on the basis of the greater of (a) the value of only such of the assets of such subsidiary as would constitute lawful investments for the insurer if acquired or held directly by the insurer or (b) such other value determined pursuant to rules and cumulative limitations which shall be promulgated by the commissioner to effectuate the purposes of this chapter.

(4) The commissioner has full discretion in determining the method of calculating values according to the rules set forth in this

section, and consistent with such methods as then adopted by the National Association of Insurance Commissioners. [1993 c 462 s 54; 1973 c 151 s 1; 1947 c 79 s .12.18; Rem. Supp. 1947 s 45.12.18.]

Severability—Implementation—1993 c 462: See RCW 48.31B.901 and 48.31B.902.

RCW 48.12.190 Valuation of property. (1) Real property acquired pursuant to a mortgage loan or a contract for a deed, in the absence of a recent appraisal deemed by the commissioner to be reliable, shall not be valued at an amount greater than the unpaid principal of the defaulted loan or contract at the date of such acquisition, together with any taxes and expenses paid or incurred in connection with such acquisition, and the cost of improvements thereafter made by the insurer and any amounts thereafter paid by the insurer on assessments levied for improvements in connection with the property.

(2) Other real property held by an insurer shall not be valued at any amount in excess of fair value, less reasonable depreciation based on the estimated life of the improvements.

(3) Personal property acquired pursuant to chattel mortgages made under *RCW 48.13.150 shall not be valued at an amount greater than the unpaid balance of principal on the defaulted loan at date of acquisition together with taxes and expenses incurred in connection with such acquisition, or the fair value of such property, whichever amount is the lesser.

(4) The commissioner has full discretion in determining the method of calculating values according to the rules set forth in this section, and consistent with such methods as then adopted by the National Association of Insurance Commissioners. [1993 c 462 s 55; 1967 ex.s. c 95 s 10; 1947 c 79 s .12.19; Rem. Supp. 1947 s 45.12.19.]

***Reviser's note:** RCW 48.13.150 was repealed by 2011 c 188 s 22, effective July 1, 2012.

Severability—Implementation—1993 c 462: See RCW 48.31B.901 and 48.31B.902.

RCW 48.12.200 Valuation of purchase money mortgages. (1) Purchase money mortgages shall be valued in an amount not exceeding the acquisition cost of the real property covered thereby or ninety percent of the fair value of such real property, whichever is less.

(2) The commissioner has full discretion in determining the method of calculating values according to the rules set forth in this section, and consistent with such methods as then adopted by the National Association of Insurance Commissioners. [1993 c 462 s 56; 1947 c 79 s .12.20; Rem. Supp. 1947 s 45.12.20.]

Severability—Implementation—1993 c 462: See RCW 48.31B.901 and 48.31B.902.

CREDIT FOR REINSURANCE

RCW 48.12.400 Purpose—Intent—Declaration. The purpose of this subchapter is to protect the interest of insureds, claimants, ceding insurers, assuming insurers, and the public generally. The legislature intends to ensure adequate regulation of insurers and reinsurers and adequate protection for those to whom they owe obligations. Therefore, the legislature provides a mandate that upon the insolvency of a non-United States insurer or reinsurer that provides security to fund its United States obligations in accordance with this subchapter, the assets representing the security must be maintained in the United States and claims must be filed with and valued by the state insurance commissioner with regulatory oversight, and the assets distributed, in accordance with the insurance laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic United States insurance companies. The legislature declares that the matters contained in this subchapter are fundamental to the business of insurance in accordance with 15 U.S.C. Secs. 1011-1012. [2015 c 63 s 1.]

RCW 48.12.405 Domestic ceding insurer—Asset or reduction from liability—Requirements. Credit for reinsurance is allowed a domestic ceding insurer as either an asset or a reduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of RCW 48.12.410, 48.12.415, 48.12.420, 48.12.425, 48.12.430, 48.12.462, or 48.12.435. Credit is allowed under RCW 48.12.410, 48.12.415, or 48.12.420 only as respects cessions of those kinds or classes of business which the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile or, in the case of a United States branch of the alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance. Credit is allowed under RCW 48.12.420 or 48.12.425 only if the applicable requirements of RCW 48.12.440 have been satisfied. [2021 c 138 s 1; 2015 c 63 s 2.]

RCW 48.12.410 Assuming insurer—Licensed. Credit is allowed when the reinsurance is ceded to an assuming insurer that is licensed to transact insurance or reinsurance in this state. [2015 c 63 s 3.]

RCW 48.12.415 Accredited as reinsurer—Assuming insurer—Requirements. Credit is allowed when the reinsurance is ceded to an assuming insurer that is accredited by the commissioner as a reinsurer in this state. In order to be eligible for accreditation, a reinsurer must:

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

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

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

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

(5) Demonstrate to the satisfaction of the commissioner that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. An assuming insurer meets this requirement as of the time of its application if it maintains a surplus as regards policyholders in an amount not less than twenty million dollars and its accreditation has not been denied by the commissioner within ninety days after submission of its application. [2015 c 63 s 4.]

RCW 48.12.420 Assuming insurer—Domiciled in this state or state with similar statutes. (1) Credit is allowed when the reinsurance is ceded to an assuming insurer that is domiciled in, or in the case of a United States branch of an alien assuming insurer is entered through, a state that employs standards regarding credit for reinsurance substantially similar to those applicable under this statute and the assuming insurer or United States branch of an alien assuming insurer:

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

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

(2) Subsection (1)(a) of this section does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system. [2015 c 63 s 5.]

RCW 48.12.425 Assuming insurer maintains a trust fund—Payment of valid claims—Requirements. (1) Credit is allowed when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution, as defined in RCW 48.12.465(2), for the payment of the valid claims of its United States ceding insurers, their assigns, and successors in interest. To enable the commissioner to determine the sufficiency of the trust fund, the assuming insurer must report annually to the commissioner information substantially the same as that required to be reported on the national association of insurance commissioners annual statement form by licensed insurers. The assuming insurer must submit to examination of its books and records by the commissioner and bear the expense of examination.

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

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

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

(b) 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 instrument must provide that contested claims are valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust must vest legal title to its assets in its trustees for the benefit of the assuming insurer's United States ceding insurers, their assigns, and successors in interest. The trust and the assuming insurer are subject to examination as determined by the commissioner.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(v) Within ninety days after its financial statements are due to be filed with the group's domiciliary regulator, make available to the commissioner an annual certification of each underwriter member's solvency by the member's domiciliary regulator and financial statements of each underwriter member of the group prepared by its independent public accountant. [2015 c 63 s 6.]

RCW 48.12.430 Assuming insurer—Certified as reinsurer—Eligibility requirements—Insurer obligations—Commissioner's duties. Credit is allowed when the reinsurance is ceded to an assuming insurer that has been certified by the commissioner as a reinsurer in this state and secures its obligations in accordance with the requirements of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) In order for a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer must maintain security in a form acceptable to the commissioner and consistent with the provisions of RCW 48.12.460, or in a multibeneficiary trust in accordance with RCW 48.12.425, except as otherwise provided in this section.

(b) If a certified reinsurer maintains a trust to fully secure its obligations under RCW 48.12.425, and chooses to secure its obligations incurred as a certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer must maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this section or comparable laws of other United States jurisdictions and for its obligations under RCW 48.12.425. It is a condition to the grant of certification under this section that the certified reinsurer must have bound itself, by the language of the trust and agreement with the commissioner with principal regulatory oversight of each such trust account, to fund, upon termination of any trust account, out of the remaining surplus of the trust any deficiency of any other trust account.

(c) The minimum trusteed surplus requirements provided in RCW 48.12.425 are not applicable with respect to a multibeneficiary trust maintained by a certified reinsurer for the purpose of securing obligations incurred under this section, except that the trust must maintain a minimum trusteed surplus of ten million dollars.

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

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

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

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

(6) If an applicant for certification has been certified as a reinsurer in a national association of insurance commissioners accredited jurisdiction, the commissioner has the discretion to defer to that jurisdiction's certification, and has the discretion to defer

to the rating assigned by that jurisdiction, and the assuming insurer must be considered to be a certified reinsurer in this state.

(7) A certified reinsurer that ceases to assume new business in this state may request to maintain its certification in inactive status in order to continue to qualify for a reduction in security for its in-force business. An inactive certified reinsurer must continue to comply with all applicable requirements of this section, and the commissioner must assign a rating that takes into account, if relevant, the reasons why the reinsurer is not assuming new business. [2015 c 63 s 7.]

RCW 48.12.435 Assuming insurer not meeting certain requirements—Credit restricted. Credit is allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of RCW 48.12.410, 48.12.415, 48.12.420, 48.12.425, 48.12.462, or 48.12.430, but only as to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction. [2021 c 138 s 3; 2015 c 63 s 8.]

RCW 48.12.440 Assuming insurer not licensed, accredited, or certified—No credit—Exceptions. If the assuming insurer is not licensed, accredited, or certified to transact insurance or reinsurance in this state, the credit permitted by RCW 48.12.420 and 48.12.425 must not be allowed unless the assuming insurer agrees in the reinsurance agreements:

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

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

(2) This section is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if this obligation is created in the agreement. [2015 c 63 s 9.]

RCW 48.12.445 Assuming insurer does not meet certain requirements—Trust agreements—Necessary conditions. If the assuming insurer does not meet the requirements of RCW 48.12.410, 48.12.415, or 48.12.420, the credit permitted by RCW 48.12.425, 48.12.462, or 48.12.430 must not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

(1) 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 RCW 48.12.425(3), or if the grantor of the trust has been declared insolvent or placed into 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 all of the assets of the trust fund.

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

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

(4) The grantor must waive any right otherwise available to it under United States law that is inconsistent with this provision. [2021 c 138 s 4; 2015 c 63 s 10.]

RCW 48.12.450 Accredited or certified reinsurer does not meet requirements—Commissioner may suspend or revoke. If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification, the commissioner may suspend or revoke the reinsurer's accreditation or certification.

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

(a) The reinsurer waives its right to hearing;

(b) The commissioner's order is based on regulatory action by the reinsurer's domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state of the reinsurer under RCW 48.12.430(6); or

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

(2) While a reinsurer's accreditation or certification is suspended, no reinsurance contract issued or renewed after the effective date of the suspension qualifies for credit except to the extent that the reinsurer's obligations under the contract are secured in accordance with RCW 48.12.460. If a reinsurer's accreditation or certification is revoked, no credit for reinsurance may be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the contract are secured in accordance with RCW 48.12.430(5) or 48.12.460. [2015 c 63 s 11.]

RCW 48.12.455 Ceding insurer—Reinsurance program. (1) A ceding insurer must take steps to manage its reinsurance recoverable proportionate to its own book of business. A domestic ceding insurer must notify the commissioner within thirty days after reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, exceeds fifty percent of the domestic ceding insurer's last reported surplus to policyholders, or after it is

determined that reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification must demonstrate that the exposure is safely managed by the domestic ceding insurer.

(2) A ceding insurer must take steps to diversify its reinsurance program. A domestic ceding insurer must notify the commissioner within thirty days after ceding to any single assuming insurer, or group of affiliated assuming insurers, more than twenty percent of the ceding insurer's gross written premium in the prior calendar year, or after it has determined that the reinsurance ceded to any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification must demonstrate that the exposure is safely managed by the domestic ceding insurer. [2015 c 63 s 12.]

RCW 48.12.460 Reinsurance ceded by domestic insurer to assuming insurer not meeting requirements—When asset or reduction from liability allowed. An asset or a reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of RCW 48.12.405 through 48.12.455 must be allowed in an amount not exceeding the liabilities carried by the ceding insurer. The reduction must be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations thereunder, if the security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified United States financial institution, as defined in RCW 48.12.465(2). This security may be in the form of:

(1) Cash;

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

(3)(a) Clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified United States financial institution, as defined in RCW 48.12.465(1), effective no later than December 31st of the year for which the filing is being made, and in the possession of, or in trust for, the ceding insurer on or before the filing date of its annual statement;

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

(4) Any other form of security acceptable to the commissioner. [2015 c 63 s 13.]

RCW 48.12.462 Reinsurance ceded to an assuming insurer—Reciprocal jurisdictions—Commissioner's duties. (1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that:

(a) Is located and licensed in a reciprocal jurisdiction;

(b) Has and maintains, on an ongoing basis, minimum capital and surplus, or its equivalent, calculated according to the methodology of its domiciliary jurisdiction, in an amount to be set forth in rule. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it must have and maintain, on an ongoing basis, minimum capital and surplus equivalents, net of liabilities, calculated according to the methodology applicable in its domiciliary jurisdiction, and a central fund containing a balance in amounts to be set forth in rule;

(c) Has and maintains, on an ongoing basis, a minimum solvency or capital ratio, as applicable, to be established in rule. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it must have and maintain, on an ongoing basis, a minimum solvency or capital ratio in the reciprocal jurisdiction where the assuming insurer has its head office or is domiciled, as applicable, and is also licensed;

(d) Provides adequate assurance to the commissioner, in a form specified by the commissioner in rule, as follows:

(i) The assuming insurer must provide prompt written notice and explanation to the commissioner if it falls below the minimum requirements set forth in (b) or (c) of this subsection, or if any regulatory action is taken against it for serious noncompliance with applicable law;

(ii) The assuming insurer must consent in writing to the jurisdiction of the courts of this state and to the appointment of the commissioner as agent for service of process. The commissioner may require that consent for service of process be provided to the commissioner and included in each reinsurance agreement. Nothing in this provision limits, or in any way alters, the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws;

(iii) The assuming insurer must consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer or its legal successor, that have been declared enforceable in the jurisdiction where the judgment was obtained;

(iv) Each reinsurance agreement must include a provision requiring the assuming insurer to provide security in an amount equal to one hundred percent of the assuming insurer's liabilities attributable to reinsurance ceded under that agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by its legal successor on behalf of its resolution estate; and

(v) The assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement which involves this state's ceding insurers, and agree to notify the ceding insurer and the commissioner and to provide security in an amount equal to one hundred percent of the assuming insurer's liabilities to the ceding insurer, should the assuming insurer enter into such a solvent scheme of arrangement. This security must be in a form consistent with RCW 48.12.430 and 48.12.460 and as specified by the commissioner in rule;

(e) Provides, if requested by the commissioner, on behalf of itself and any legal predecessors, documentation to the commissioner, as specified by the commissioner in rule;

(f) Maintains a practice of prompt payment of claims under reinsurance agreements, under criteria established in rule; and

(g) Requires its supervisory authority to confirm to the commissioner on an annual basis, as of the preceding December 31st or at the date otherwise statutorily reported to the reciprocal jurisdiction, that the assuming insurer is in compliance with (b) and (c) of this subsection.

(2) Nothing in subsection (1) of this section precludes an assuming insurer from providing the commissioner with information on a voluntary basis.

(3) The commissioner must create and publish a list of reciprocal jurisdictions.

(a) The commissioner's list must include any reciprocal jurisdiction as defined in subsection (9)(b)(i) and (ii) of this section, and consider any other reciprocal jurisdiction included on the list of reciprocal jurisdictions published through the national association of insurance commissioners' committee process. The commissioner may approve a jurisdiction that does not appear on the national association of insurance commissioners' list of reciprocal jurisdictions in accordance with the commissioner's rules.

(b) The commissioner may remove a jurisdiction from the list of reciprocal jurisdictions upon a determination that the jurisdiction no longer meets the requirements of a reciprocal jurisdiction, in accordance with the commissioner's rules, except that the commissioner shall not remove from the list a reciprocal jurisdiction as defined under subsection (9)(b)(i) and (ii) of this section. Upon removal of a reciprocal jurisdiction from this list, credit for reinsurance ceded to an assuming insurer that is located in that jurisdiction shall be allowed if otherwise allowed under this chapter.

(4) The commissioner must create and publish a list of assuming insurers that have satisfied the conditions set forth in this section and to which cessions shall be granted credit. The commissioner may add a [an] assuming insurer to the list if a national association of insurance commissioners' accredited jurisdiction has added the assuming insurer to a list of assuming insurers or if, upon initial eligibility, the assuming insurer submits the information to the commissioner required under subsection (1)(d) of this section and complies with any additional requirements that the commissioner adopts in rule, except to the extent that they conflict with an applicable covered agreement.

(5) If the commissioner determines that an assuming insurer no longer meets one or more of the requirements under this subsection, the commissioner may revoke or suspend the eligibility of the assuming insurer for recognition under this subsection in accordance with procedures adopted in rule.

(a) While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended, or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer's obligations under the contract are secured in accordance with RCW 48.12.460.

(b) If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into before the date of revocation, except to the extent that the assuming insurer's obligations under the contract are secured in a form

acceptable to the commissioner and consistent with the provisions of RCW 48.12.460.

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

(7) This subsection does not limit or alter the capacity of parties to a reinsurance agreement to agree on requirements for security or other terms in that reinsurance agreement, except as expressly prohibited by this chapter.

(8)(a) Credit may be taken under this subsection only for reinsurance agreements entered into, amended, or renewed on or after July 25, 2021, and only with respect to losses incurred and reserves reported on or after the later of:

(i) The date on which the assuming insurer has met all eligibility requirements; and

(ii) The effective date of the new reinsurance agreement, amendment, or renewal.

(b) This subsection does not alter or impair a ceding insurer's right to take credit for reinsurance, to the extent that credit is not available under this subsection, as long as the reinsurance qualifies for credit under any other applicable provision of this chapter.

(c) Nothing in this section authorizes an assuming insurer to withdraw or reduce the security provided under any reinsurance agreement except as permitted by the terms of the agreement.

(d) Nothing in this section limits, or in any way alters, the capacity of parties to any reinsurance agreement to renegotiate the agreement.

(9) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Covered agreement" is an agreement entered into under the Dodd-Frank wall street reform and consumer protection act, 31 U.S.C. Secs. 313 and 314, that is currently in effect or is in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this state or for allowing the ceding insurer to recognize credit for reinsurance.

(b) "Reciprocal jurisdiction" means a jurisdiction that is:

(i) Located outside the United States and is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and European Union, is a member state of the European Union;

(ii) Located within a United States jurisdiction that meets the requirements for accreditation under the national association of insurance commissioners' financial standards and accreditation program; or

(iii) A qualified jurisdiction, as determined by the commissioner under RCW 48.12.430(3), which is not otherwise described in (b)(i) or (ii) of this subsection and which meets certain additional requirements, consistent with the terms and conditions of in-force covered agreements, as specified by the commissioner in rule. [2021 c 138 s 2.]

RCW 48.12.464 Reinsurance agreements—Commissioner may adopt rules. (1) The commissioner may adopt rules applicable to reinsurance agreements as provided in this section.

(2) A rule adopted under this section may only apply to reinsurance relating to:

(a) Life insurance policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits;

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

(c) Variable annuities with guaranteed death or living benefits;

(d) Long-term care insurance policies; or

(e) Such other life and health insurance and annuity products as to which the national association of insurance commissioners adopts model regulatory requirements with respect to credit for reinsurance.

(3) A rule adopted under subsection (2)(a) or (b) of this section may apply to any treaty containing:

(a) Policies issued on or after January 1, 2015; and

(b) Policies issued before January 1, 2015, if risk pertaining to these policies is ceded in connection with the treaty, in whole or in part, on or after January 1, 2015.

(4) A rule adopted under this section may require the ceding insurer, in calculating the amounts or forms of security required to be held under rule, to use the valuation manual adopted by the national association of insurance commissioners under RCW 48.74.100(2)(a), including all amendments adopted by the national association of insurance commissioners and in effect on the date as of which the calculation is made, to the extent applicable.

(5) A rule adopted under this section shall not apply to cessions to an assuming insurer that:

(a) Meets the conditions set forth in RCW 48.12.462;

(b) Is certified under RCW 48.12.430 in this state; or

(c) Maintains at least two hundred fifty million dollars in capital and surplus when determined in accordance with the national association of insurance commissioners' accounting practices and procedures manual, including all amendments adopted by the national association of insurance commissioners as of July 25, 2021, excluding the impact of any permitted or prescribed practices, and:

(i) Is licensed in at least twenty-six states; or

(ii) Is either licensed or accredited in a total of at least thirty-five states and maintains licensure in at least ten states under this subsection (5)(c)(ii).

(6) The authority to adopt rules under this section does not limit the commissioner's general authority to adopt rules under RCW 48.12.480. [2021 c 138 s 5.]

RCW 48.12.465 Definitions—Apply to RCW 48.12.460(3). (1) For the purposes of RCW 48.12.460(3), a "qualified United States financial institution" means an institution that:

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

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

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

(2) A "qualified United States financial institution" means, for the purposes of those provisions of this subchapter specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that:

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

(b) Is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies. [2015 c 63 s 14.]

RCW 48.12.470 Credit for reinsurance—Accounting or financial statement—After December 31, 1996. Credit for reinsurance, as either an asset or a deduction, is prohibited in an accounting or financial statement of the ceding insurer in respect to the reinsurance contract unless, in such contract, the reinsurer undertakes to indemnify the ceding insurer against all or a part of the loss or liability arising out of the original insurance. This section only applies to those reinsurance contracts entered into after December 31, 1996. [1997 c 379 s 5. Formerly RCW 48.12.164.]

Purpose—Intent—1997 c 379: "(1) The purpose of this act is to protect the interest of insureds, claimants, ceding insurers, assuming insurers, and the public generally.

(2) It is the intent of the legislature to ensure adequate regulation of insurers and reinsurers and adequate protection for those to whom they owe obligations.

(3) It is also the intent of the legislature to declare that the matters contained in this act are fundamental to the business of insurance and to exercise its powers and privileges under 15 U.S.C. Secs. 1011 and 1012." [1997 c 379 s 1.]

RCW 48.12.475 Assuming alien reinsurer—Registration—Requirements—Duties of commissioner—Costs. (1) The assuming alien reinsurer must register with the commissioner and must:

(a) File with the commissioner evidence of its submission to this state's jurisdiction and to this state's authority to examine its books and records under chapter 48.03 RCW;

(b) Designate the commissioner as its lawful attorney upon whom service of all papers may be made for an action, suit, or proceeding instituted by or on behalf of the ceding insurer;

(c) File with the commissioner a certified copy of a letter or a certificate of authority or a certificate of compliance issued by the assuming alien insurer's domiciliary jurisdiction and the domiciliary jurisdiction of its United States reinsurance trust;

(d) Submit a statement, signed and verified by an officer of the assuming alien insurer to be true and correct, that discloses whether

the assuming alien insurer or an affiliated person who owns or has a controlling interest in the assuming alien insurer is currently known to be the subject of one or more of the following:

(i) An order or proceeding regarding conservation, liquidation, or receivership;

(ii) An order or proceeding regarding the revocation or suspension of a license or accreditation to transact insurance or reinsurance in any jurisdiction; or

(iii) An order or proceeding brought by an insurance regulator in any jurisdiction seeking to restrict or stop the assuming alien insurer from transacting insurance or reinsurance based upon a hazardous financial condition.

The assuming alien insurer shall provide the commissioner with copies of all orders or other documents initiating proceedings subject to disclosure under this subsection. The statement must affirm that no actions, proceedings, or orders subject to this subsection are outstanding against the assuming alien insurer or an affiliated person who owns or has a controlling interest in the assuming alien insurer, except as disclosed in the statement;

(e) File other information, financial or otherwise, which the commissioner reasonably requests.

(2) A registration continues in force until suspended, revoked, or not renewed. A registration is subject to renewal annually on the first day of July upon application of the assuming alien insurer and payment of the fee in the same amount as an insurer pays for renewal of a certificate of authority.

(3) The commissioner shall give an assuming alien insurer notice of his or her intention to revoke or refuse to renew its registration at least ten days before the order of revocation or refusal is to become effective.

(4) The commissioner shall, consistent with chapters 48.04 and 34.05 RCW, deny or revoke an assuming alien insurer's registration if the assuming alien insurer no longer qualifies or meets the requirements for registration.

(5) The commissioner may, consistent with chapters 48.04 and 34.05 RCW, deny or revoke an assuming alien insurer's registration if the assuming alien insurer:

(a) Fails to comply with a provision of this chapter or fails to comply with an order or regulation of the commissioner;

(b) Is found by the commissioner to be in such a condition that its further transaction of reinsurance would be hazardous to ceding insurers, policyholders, or the people in this state;

(c) Refuses to remove or discharge a trustee, director, or officer who has been convicted of a crime involving fraud, dishonesty, or moral turpitude;

(d) Usually compels policy-holding claimants either to accept less than the amount due them or to bring suit against the assuming alien insurer to secure full payment of the amount due;

(e) Refuses to be examined, or its trustees, directors, officers, employees, or representatives refuse to submit to examination or to produce its accounts, records, and files for examination by the commissioner when required, or refuse to perform a legal obligation relative to the examination;

(f) Refuses to submit to the jurisdiction of the United States courts;

(g) Fails to pay a final judgment rendered against it:

(i) Within thirty days after the judgment became final;

(ii) Within thirty days after time for taking an appeal has expired; or

(iii) Within thirty days after dismissal of an appeal before final determination;

whichever date is later;

(h) Is found by the commissioner, after investigation or upon receipt of reliable information:

(i) To be managed by persons, whether by its trustees, directors, officers, or by other means, who are incompetent or untrustworthy or so lacking in insurance company management experience as to make proposed operation hazardous to the insurance-buying public; or

(ii) That there is good reason to believe it is affiliated directly or indirectly through ownership, control, or business relations, with a person or persons whose business operations are, or have been found to be, in violation of any law or rule, to the detriment of policyholders, stockholders, investors, creditors, or of the public, by bad faith or by manipulation of the assets, accounts, or reinsurance;

(i) Does business through reinsurance intermediaries or other representatives in this state or in any other state, who are not properly licensed under applicable laws and rules; or

(j) Fails to pay, by the date due, any amounts required by this code.

(6) A domestic ceding insurer is not allowed credit with respect to reinsurance ceded, if the assuming alien insurer's registration has been revoked by the commissioner.

(7) The actual costs and expenses incurred by the commissioner for an examination of a registered alien insurer must be charged to and collected from the alien reinsurer.

(8) A registered alien reinsurer is included as a "class one" organization for the purposes of RCW 48.02.190. [1997 c 379 s 7. Formerly RCW 48.12.166.]

Purpose—Intent—1997 c 379: See note following RCW 48.12.470.

RCW 48.12.480 Rules. The commissioner may adopt rules and regulations implementing the provisions of this subchapter. [2015 c 63 s 15.]

RCW 48.12.499 Application of chapter 63, Laws of 2015. Chapter 63, Laws of 2015 applies to all cessions after July 24, 2015, under reinsurance agreements that have an inception, anniversary, or renewal date not less than six months after July 24, 2015. [2015 c 63 s 16.]