

Senate Bill 385

By: Senators Shafer of the 48th, Goggans of the 7th, Bethel of the 54th and McKoon of the 29th

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to
2 provide for the confidentiality of certain records of the Commissioner of Insurance to extend
3 to state, federal, or international regulatory law enforcement; to provide for exceptions; to
4 provide for certain premium taxes and the rate and manner of collection to include state
5 participation in certain agreements with other states; to revise certain provisions regarding
6 reinsurance; to revise certain provisions regarding reinsurance credits applicable to an
7 assuming insurer licensed in its state of domicile or of certain alien assuming insurers; to
8 provide that certain notices of insurance cancellation may be delivered with the monthly bill
9 for such insurance; to provide for related matters; to repeal conflicting laws; and for other
10 purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
14 revising subsections (g) and (i) of Code Section 33-2-14, relating to preparation of written
15 reports of examinations generally, certification of reports, admissibility in evidence, notice
16 and hearing on reports, and use of examination documents, as follows:

17 "(g) Notwithstanding the provisions of Article 4 of Chapter 18 of Title 50, relating to the
18 inspection of public records, all work papers, analysis, ~~recorded~~ information, documents,
19 ~~copies~~ information received from another state, and any other materials created, produced,
20 or obtained by or disclosed to the Commissioner or any other person in the course of an
21 examination made under this chapter or in the course of analysis by the Commissioner of
22 the financial condition or market conduct of a company must be given confidential
23 treatment and are not subject to subpoena and may not be made public by the
24 Commissioner or any other person. Access may be granted to authorized representatives
25 of the National Association of Insurance Commissioners. Such representatives must agree
26 in writing prior to receiving the information to treat such information confidentially as

27 required by this Code section, unless the prior written consent of the company to which it
 28 pertains has been obtained."

29 "(i) Nothing contained in this Code section shall prevent or be construed as prohibiting the
 30 Commissioner from disclosing the ~~contents of an examination report, preliminary~~
 31 ~~examination report, or results or any matter relating thereto to the insurance department of~~
 32 ~~this or any other state or country or to work papers, analysis, information, or a document~~
 33 described in subsection (g) of this Code section to state, federal, or international regulatory
 34 agencies or state, federal, or international law enforcement officials of this or any other
 35 ~~state or agency of the federal government at any time~~ authorities so long as such agency
 36 ~~or office receiving the report or matter relating thereto~~ recipient agrees in writing to treat
 37 such report confidentially and in a manner consistent with this title."

38 SECTION 2.

39 Said title is further amended by revising subsection (b) of Code Section 33-5-31, relating to
 40 payment by broker of tax for privilege of doing business and computation and allocation of
 41 tax, as follows:

42 "(b) ~~If this state participates in a cooperative agreement, compact, or reciprocal agreement~~
 43 with other states pursuant to Code Sections 33-5-40 through 33-5-44 and a surplus line
 44 policy covers risks or exposures located or to be performed both in and out of this state, the
 45 sum payable shall be computed based on an amount equal to 4 percent of that portion of
 46 the gross premiums allocated to this state plus an amount equal to the portion of premiums
 47 allocated to other states or territories on the basis of the tax rates and fees applicable to
 48 properties, risks, or exposures located or to be performed outside this state."

49 SECTION 3.

50 Said title is further amended by revising subsection (b) of Code Section 33-5-33, relating to
 51 filing of report by persons procuring insurance with unauthorized insurers and levy,
 52 collection, and disposition of tax by persons procuring such insurance, and adding a new
 53 subsection to read as follows:

54 "(b) ~~For~~ If this state participates in a cooperative agreement, compact, or reciprocal
 55 agreement with other states pursuant to Code Sections 33-5-40 through 33-5-44, then for
 56 the general support of the government of this state, there is levied and there shall be
 57 collected from every such insured in this state for the privilege of so insuring his property
 58 or interests, a tax at the rate of 4 percent of the gross premium paid for any such insurance
 59 covering risks or exposures located or to be performed both in and out of this state, after
 60 deduction of return premiums, if any. The sum payable shall be computed based upon an
 61 amount equal to 4 percent of that portion of the gross premiums allocated to this state plus

62 an amount equal to the portion of premiums allocated to other states or territories on the
 63 basis of the tax rates and fees applicable to properties, risks, or exposures located or to be
 64 performed outside this state. Such tax shall be paid to the Commissioner coincidentally
 65 with the filing of the report provided for in subsection (a) of this Code section.

66 (b.1) If this state does not participate in a cooperative agreement, compact, or reciprocal
 67 agreement with other states pursuant to Code Sections 33-5-40 through 33-5-44, then for
 68 the general support of the government of this state, there is levied and there shall be
 69 collected from every such insured in this state for the privilege of so insuring his or her
 70 property or interests both in and out of this state, a tax at the rate of 4 percent of the gross
 71 premium paid for any such insurance, after deduction of return premiums, if any. Such tax
 72 shall be paid to the Commissioner coincidentally with the filing of the report provided for
 73 in subsection (a) of this Code section."

74 **SECTION 4.**

75 Said title is further amended by revising Code Section 33-5-41, relating to Governor
 76 authorized to enter into cooperative agreement, compact, or reciprocal agreement for
 77 collection of insurance premium taxes, as follows:

78 "33-5-41.

79 The Governor, on behalf of the state, advised by and in consultation with the
 80 Commissioner of Insurance, is authorized to enter into a cooperative agreement, compact,
 81 or reciprocal agreement with another state or states for the purpose of the collection of
 82 insurance premium taxes imposed by Code ~~Section~~ Sections 33-5-31 and 33-5-33."

83 **SECTION 5.**

84 Said title is further amended by revising Code Section 33-7-14, relating to reinsurance of
 85 risks, as follows:

86 "33-7-14.

87 (a) Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or
 88 a deduction from liability on account of reinsurance ceded only when the reinsurer meets
 89 the requirements of paragraph (1), (2), (3), (4), ~~or~~ (5), or (6) of this subsection. Credit shall
 90 be allowed under paragraph (1), (2), or (3) of this subsection only with respect to cessions
 91 of those kinds of classes of business for which the assuming insurer is licensed or otherwise
 92 permitted to write or assume in its state of domicile, or in the case of a United States branch
 93 of an alien assuming insurer, in the state through which it is entered and licensed to transact
 94 insurance or reinsurance. If meeting the requirements of paragraph (3) or (4) of this
 95 subsection, the requirements of paragraph ~~(6)~~ (7) of this subsection ~~must~~ shall also be met:

- 96 (1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which
 97 is licensed to transact insurance or reinsurance in this state;
- 98 (2) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which
 99 is accredited as a reinsurer by the Commissioner in this state. ~~An accredited~~ In order to
 100 be eligible for accreditation, a reinsurer is one which shall:
- 101 (A) ~~Files~~ File with the Commissioner evidence of its submission to this state's
 102 jurisdiction;
- 103 (B) ~~Submits~~ Submit to this state's authority to examine its books and records;
- 104 (C) ~~Is~~ Be licensed to transact insurance or reinsurance in at least one state, or in the
 105 case of a United States branch of an alien assuming insurer, is be entered through and
 106 licensed to transact insurance or reinsurance in at least one state; ~~and~~
- 107 (D) ~~Files~~ File annually with the Commissioner a copy of its annual statement filed with
 108 the insurance department of its state of domicile and a copy of its most recent audited
 109 financial statement; and:
- 110 (i) ~~Maintains a surplus with regard to policyholders in an amount which is not less~~
 111 ~~than \$20 million and whose accreditation has not been denied by the Commissioner~~
 112 ~~within 90 days of its submission; or~~
- 113 (ii) ~~Maintains a surplus with regard to policyholders in an amount less than \$20~~
 114 ~~million and whose accreditation has been approved by the Commissioner.~~
- 115 ~~No credit shall be allowed a domestic ceding insurer if the assuming insurer's~~
 116 ~~accreditation has been revoked by the Commissioner after notice and hearing;~~
- 117 (E) Demonstrate to the satisfaction of the Commissioner that it has adequate financial
 118 capacity to meet its reinsurance obligations and is otherwise qualified to assume
 119 reinsurance from domestic insurers. An assuming insurer is deemed to meet this
 120 requirement as of the time of its application if it maintains a surplus as regards
 121 policyholders in an amount of not less than \$20 million and its accreditation has not
 122 been denied by the Commissioner within 90 days after the submission of its application;
- 123 (3) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which
 124 is domiciled and licensed in, or, in the case of a United States branch of an alien
 125 assuming insurer, is entered through a state which employs standards regarding credit for
 126 reinsurance substantially similar to those applicable under this Code section and the
 127 assuming insurer or United States branch of an alien assuming insurer:
- 128 (A) Maintains a surplus with regard to policyholders in an amount not less than \$20
 129 million; and
- 130 (B) Submits to the authority of this state to examine its books and records.
 131 Subparagraph (A) of this paragraph shall not apply to reinsurance ceded and assumed
 132 pursuant to pooling arrangements among insurers in the same holding company system;

133 (4)(A) Credit shall be allowed when the reinsurance is ceded to an assuming insurer
 134 which maintains a trust fund in a qualified United States financial institution, as defined
 135 in ~~paragraph (2)~~ of subsection (c) of this Code section, for the payment of the valid
 136 claims of its United States ~~policyholders~~ and ceding insurers, their assigns, and
 137 successors in interest. The assuming insurer shall report annually to the Commissioner
 138 information substantially the same as that required to be reported on the National
 139 Association of Insurance Commissioners Annual Statement form by licensed insurers
 140 to enable the Commissioner to determine the sufficiency of the trust fund. In the case
 141 of a single assuming insurer, the trust shall consist of a trusteed account representing
 142 the assuming insurer's liabilities attributable to business written in the United States
 143 and, in addition, the assuming insurer shall maintain a trusteed surplus of not less than
 144 \$20 million; provided, however, that, at any time after the assuming insurer has
 145 permanently discontinued underwriting new business secured by trust for at least three
 146 full years, the commissioner with principal regulatory oversight of the trust may
 147 authorize a reduction of the required trusteed surplus, but only after a finding, based
 148 upon an assessment of the risk, that the new required surplus level is adequate for the
 149 protection of United States ceding insurers, policyholders, and claimants in light of
 150 reasonably foreseeable adverse loss development. The risk assessment may involve an
 151 actuarial review, including an independent analysis of reserves and cash flows, and
 152 shall consider all material risk factors, including, when applicable, the lines of business
 153 involved, the stability of the incurred loss estimates and the effect of the surplus
 154 requirements on the assuming insurer's liquidity or solvency. The minimum required
 155 trusteed surplus may not be reduced to an amount less than 30 percent of the assuming
 156 insurer's liabilities attributable to reinsurance ceded by United States ceding insurers
 157 covered by the trust. In the case of a group including incorporated and individual
 158 unincorporated underwriters, the trust shall consist of a trusteed account ~~representing~~
 159 ~~the group's~~ in an amount not less than the respective underwriters' liabilities attributable
 160 to business written in the United States and, in addition, the group shall maintain a
 161 trusteed surplus of which \$100 million shall be held jointly for the benefit of United
 162 States ceding insurers of any member of the group for all years of account; the
 163 incorporated members of the group shall not be engaged in any business other than
 164 underwriting as a member of the group and shall be subject to the same level of
 165 solvency regulation and control by the group's domiciliary regulator as are the
 166 unincorporated members; and, within 90 days after its financial statements are due to
 167 be filed with the group's domiciliary regulator, the group shall ~~make available~~ provide
 168 to the Commissioner an annual certification of the solvency of each underwriter by the

169 group's domiciliary regulator or, if a certification is unavailable, financial statements
 170 prepared by and its independent public accountants of each member of the group.

171 (B) In the case of a group of incorporated insurers under common administration which
 172 complies with the filing requirements contained in subparagraph (A) of this paragraph
 173 and which has continuously transacted an insurance business outside the United States
 174 for at least three years immediately prior to making application for accreditation, and
 175 submits to this state's authority to examine its books and records and bears the expense
 176 of the examination, and which has aggregate policyholders' surplus of \$10 billion; the
 177 trust shall be in an amount equal to the group's several liabilities attributable to business
 178 ceded by the United States ceding insurers to any member of the group pursuant to
 179 reinsurance contracts issued in the name of such group; plus the group shall maintain
 180 a joint trusteed surplus of which \$100 million shall be held jointly for the benefit of
 181 United States ceding insurers of any member of the group as additional security for any
 182 such liabilities, and within 90 days after its financial statements are due to be filed with
 183 the group's domiciliary regulator, each member of the group shall make available to the
 184 Commissioner an annual certification of the member's solvency by the member's
 185 domiciliary regulator and financial statements prepared by its independent public
 186 accountant.

187 (C) ~~Such trust shall be established in a form~~ Credit for reinsurance shall not be granted
 188 under this paragraph unless the form of the trust and any amendments to the trust have
 189 been approved by the Commissioner commissioner of the state where the trust is
 190 domiciled or the commissioner of another state, who, pursuant to the terms of the trust
 191 agreement, has accepted principal regulatory oversight of the trust. The form of the
 192 trust and any trust amendments also shall be filed with the commissioner of every state
 193 in which the ceding insurer beneficiaries of the trust are domiciled. The trust
 194 ~~instruments~~ instrument shall provide that contested claims shall be valid and
 195 enforceable upon the final order of any court of competent jurisdiction in the United
 196 States. The trust shall vest legal title to its assets in the trustees of the trust for its
 197 United States ~~policyholders~~ and ceding insurers, their assigns, and successors in
 198 interest. The trust and the assuming insurer shall be subject to examination as
 199 determined by the Commissioner. The trust must remain in effect for as long as the
 200 assuming insurer shall have outstanding obligations due under the reinsurance
 201 agreements subject to the trust.

202 (D) No later than February 28 of each year the trustees of the trust shall report to the
 203 Commissioner in writing setting forth the balance of the trust and listing the trust's
 204 investments as of the end of the preceding year and shall certify the date of termination

205 of the trust, if so planned, or certify that the trust shall not expire prior to the next
206 following December 31;

207 (5) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not
208 meeting the requirements of paragraph (1), (2), (3), or (4) of this subsection ~~but only with~~
209 ~~respect to the insurance of risks located in jurisdictions where such reinsurance is~~
210 ~~required by applicable law or regulation of that jurisdiction; and if such assuming insurer~~
211 has been certified by the Commissioner as a reinsurer in this state and secures its
212 obligations in accordance with the requirements of this subsection.

213 (A) In order to be eligible for certification, the assuming insurer shall meet the
214 following requirements:

215 (i) The assuming insurer shall be domiciled and licensed to transact insurance or
216 reinsurance in a qualified jurisdiction, as determined by the Commissioner pursuant
217 to subparagraph (C) of this paragraph;

218 (ii) The assuming insurer shall maintain minimum capital and surplus, or its
219 equivalent, in an amount to be determined by the Commissioner pursuant to
220 regulation;

221 (iii) The assuming insurer shall maintain financial strength ratings from two or more
222 rating agencies deemed acceptable by the Commissioner pursuant to regulation;

223 (iv) The assuming insurer shall agree to submit to the jurisdiction of this state,
224 appoint the Commissioner as its agent for service of process in this state, and agree
225 to provide security for 100 percent of the assuming insurer's liabilities attributable to
226 reinsurance ceded by United States ceding insurers if it resists enforcement of a final
227 United States judgment;

228 (v) The assuming insurer shall agree to meet applicable information filing
229 requirements as determined by the Commissioner, both with respect to an initial
230 application for certification and on an ongoing basis; and

231 (vi) The assuming insurer shall satisfy any other requirements for certification
232 deemed relevant by the Commissioner.

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

236 (i) The association shall satisfy its minimum capital and surplus requirements through
237 the capital and surplus equivalents, net of liabilities, of the association and its
238 members, which shall include a joint central fund that may be applied to any
239 unsatisfied obligation of the association of any of its members, in an amount
240 determined by the Commissioner to provide adequate protection;

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

245 (iii) Within 90 days after its financial statements are due to be filed with the
246 association's domiciliary regulator, the association shall provide to the Commissioner
247 an annual certification by the association's domiciliary regulator of the solvency of
248 each underwriter member; or if a certification is unavailable, financial statements,
249 prepared by independent public accountants, of each underwriter member of the
250 association.

251 (C) The Commissioner shall create and publish a list of qualified jurisdictions under
252 which an assuming insurer licensed and domiciled in such jurisdiction is eligible to be
253 considered for certification by the Commissioner as a certified reinsurer.

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

266 (ii) A list of qualified jurisdictions shall be published through the National
267 Association of Insurance Commissioners (NAIC) Committee Process. The
268 Commissioner shall consider this list in determining qualified jurisdictions. If the
269 Commissioner approves a jurisdiction as qualified that does not appear on the list of
270 qualified jurisdictions, the Commissioner shall provide thoroughly documented
271 justification in accordance with criteria to be developed under regulations.

272 (iii) United States jurisdictions that meet the requirement for accreditation under the
273 NAIC financial standards and accreditation program shall be recognized as qualified
274 jurisdictions.

275 (iv) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified
276 jurisdiction, the Commissioner has the discretion to suspend the reinsurer's
277 certification indefinitely, in lieu of revocation.

278 (D) The Commissioner shall assign a rating to each certified reinsurer, giving due
279 consideration to the financial strength ratings that have been assigned by rating
280 agencies deemed acceptable to the Commissioner pursuant to regulation. The
281 Commissioner shall publish a list of all certified reinsurers and their ratings.

282 (E) A certified reinsurer shall secure obligations assumed from United States ceding
283 insurers under this subparagraph at a level consistent with its rating, as specified in
284 regulations promulgated by the Commissioner.

285 (i) In order for a domestic ceding insurer to qualify for full financial statement credit
286 for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain
287 security in a form acceptable to the Commissioner and consistent with the provisions
288 of subsection (b) of this Code section, or in a multibeneficiary trust in accordance
289 with paragraph (4) of this subsection, except as otherwise provided in this paragraph.

290 (ii) If a certified reinsurer maintains a trust to fully secure its obligations subject to
291 paragraph (4) of this subsection, and chooses to secure its obligations incurred as a
292 certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer shall
293 maintain separate trust accounts for its obligations incurred under reinsurance
294 agreements issued or renewed as a certified reinsurer with reduced security as
295 permitted by this subsection or comparable laws of other United States jurisdictions
296 and for its obligations subject to paragraph (4) of this subsection. It shall be a
297 condition to the grant of certification under this paragraph that the certified reinsurer
298 shall have bound itself, by the language of the trust and agreement with the
299 commissioner with principal regulatory oversight of each such trust account, to fund,
300 upon termination of any such trust account, out of the remaining surplus of such trust
301 any deficiency of any other such trust account.

302 (iii) The minimum trustee surplus requirements provided in paragraph (4) of this
303 subsection are not applicable with respect to a multibeneficiary trust maintained by
304 a certified reinsurer for the purpose of securing obligations incurred under this
305 subsection, except that such trust shall maintain a minimum trustee surplus of \$10
306 million.

307 (iv) With respect to obligations incurred by a certified reinsurer under this
308 subparagraph, if the security is insufficient, the Commissioner shall reduce the
309 allowable credit by an amount proportionate to the deficiency, and shall have the
310 discretion to impose further reductions in allowable credit upon finding that there is
311 a material risk that the certified reinsurer's obligations will not be paid in full when
312 due.

313 (v) For purposes of this subparagraph, a certified reinsurer whose certification has
 314 been terminated for any reason shall be treated as a certified reinsurer required to
 315 secure 100 percent of its obligations:

316 (I) As used in this subparagraph, the term 'terminated' refers to revocation,
 317 suspension, voluntary surrender, and inactive status.

318 (II) If the Commissioner continues to assign a higher rating as permitted by other
 319 provisions of this paragraph, this requirement shall not apply to a certified reinsurer
 320 in inactive status or to a reinsurer whose certification has been suspended.

321 (F) If an applicant for certification has been certified as a reinsurer in an NAIC
 322 accredited jurisdiction, the Commissioner shall have the discretion to defer to that
 323 jurisdiction's certification, and shall have the discretion to defer to the rating assigned
 324 by that jurisdiction, and such assuming insurer shall be considered to be a certified
 325 reinsurer in this state.

326 (G) A certified reinsurer that ceases to assume new business in this state may request
 327 to maintain its certification in inactive status in order to continue to qualify for a
 328 reduction in security for its in-force business. An inactive certified reinsurer shall
 329 continue to comply with all applicable requirements of this paragraph, and the
 330 Commissioner shall assign a rating that takes into account, if relevant, the reasons why
 331 the reinsurer is not assuming new business;

332 (6) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not
 333 meeting the requirements of paragraph (1), (2), (3), (4) or (5) of this subsection, but only
 334 as to the insurance of risks located in jurisdictions where the reinsurance is required by
 335 applicable law or regulation of that jurisdiction;

336 ~~(6)~~(7) If the assuming insurer is not licensed, or accredited, or certified to transact
 337 insurance or reinsurance in this state, the credit permitted by paragraphs (3) and (4) of
 338 this subsection shall not be allowed unless the assuming insurer agrees in the reinsurance
 339 agreements:

340 (A) That, in the event of the failure of the assuming insurer to perform its obligations
 341 under the terms of the reinsurance agreement, the assuming insurer, at the request of the
 342 ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in
 343 any state of the United States, ~~will~~ shall comply with all requirements necessary to give
 344 the court jurisdiction, and ~~will~~ shall abide by the final decision of ~~such~~ the court or of
 345 any appellate court in the event of an appeal; and

346 (B) To designate the Commissioner or a designated attorney as its true and lawful
 347 attorney upon whom may be served any lawful process in any action, suit, or
 348 proceeding instituted by or on behalf of the ceding ~~company~~ insurer.

349 This paragraph is not intended to conflict with or override the obligation of the parties
350 to a reinsurance agreement to arbitrate their disputes, if this obligation is created in the
351 agreement;

352 (8) If the assuming insurer does not meet the requirements of paragraph (1), (2), or (3)
353 of this subsection, the credit permitted by paragraph (4) or (6) of this subsection shall not
354 be allowed unless the assuming insurer agrees in the trust agreements to the following
355 conditions:

356 (A) Notwithstanding any other provisions in the trust instrument, if the trust fund is
357 inadequate because it contains an amount less than the amount required by
358 subparagraphs (A) and (B) of paragraph (4) of this subsection, as applicable, or if the
359 grantor of the trust has been declared insolvent or placed into receivership,
360 rehabilitation, liquidation, or similar proceedings under the laws of its state or country
361 of domicile, the trustee shall comply with an order of the commissioner with regulatory
362 oversight over the trust or with an order of a court of competent jurisdiction directing
363 the trustee to transfer to the commissioner with regulatory oversight all of the assets of
364 the trust fund;

365 (B) The assets shall be distributed by and claims shall be filed with and valued by the
366 commissioner with regulatory oversight in accordance with the laws of the state in
367 which the trust is domiciled that are applicable to the liquidation of domestic insurance
368 companies;

369 (C) If the commissioner with regulatory oversight determines that the assets of the trust
370 fund or any part thereof are not necessary to satisfy the claims of the United States
371 ceding insurers of the grantor of the trust, the assets or part thereof shall be returned by
372 the commissioner with regulatory oversight to the trustee for distribution in accordance
373 with the trust agreement; and

374 (D) The grantor shall waive any right otherwise available to it under United States law
375 that is inconsistent with this provision.

376 (9) If an accredited or certified reinsurer ceases to meet the requirements for
377 accreditation or certification, the Commissioner may suspend or revoke the reinsurer's
378 accreditation or certification.

379 (A) The Commissioner shall give the reinsurer notice and opportunity for hearing. The
380 suspension or revocation shall not take effect until after the Commissioner's order on
381 hearing, unless:

382 (i) The reinsurer waives its right to hearing;

383 (ii) The Commissioner's order is based on regulatory action by the reinsurer's
384 domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's
385 eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction

386 or in the primary certifying state of the reinsurer under subparagraph (F) of
 387 paragraph (5) of this subsection; or

388 (iii) The Commissioner finds that an emergency requires immediate action and a
 389 court of competent jurisdiction has not stayed the Commissioner's action.

390 (B) While a reinsurer's accreditation or certification is suspended, no reinsurance
 391 contract issued or renewed after the effective date of the suspension qualifies for credit
 392 except to the extent that the reinsurer's obligations under the contract are secured in
 393 accordance with subsection (b) of this Code section. If a reinsurer's accreditation or
 394 certification is revoked, no credit for reinsurance may be granted after the effective date
 395 of the revocation except to the extent that the reinsurer's obligations under the contract
 396 are secured in accordance with subparagraph (E) of paragraph (5) of this subsection or
 397 subsection (b) of this Code section.

398 (10) Concentration Risk:

399 (A) A ceding insurer shall take steps to manage its reinsurance recoverable
 400 proportionate to its own book of business. A domestic ceding insurer shall notify the
 401 Commissioner within 30 days after reinsurance recoverables from any single assuming
 402 insurers, or group of affiliated assuming insurers, exceeds 50 percent of the domestic
 403 ceding insurer's last reported surplus to policyholders, or after it is determined that
 404 reinsurance recoverables from any single assuming insurer, or group of affiliated
 405 assuming insurers, is likely to exceed this limit. The notification shall demonstrate that
 406 the exposure is safely managed by the domestic ceding insurer.

407 (B) A ceding insurer shall take steps to diversify its reinsurance program. A domestic
 408 ceding insurer shall notify the Commissioner within 30 days after ceding to any single
 409 assuming insurer, or group of affiliated assuming insurers, more than 20 percent of the
 410 ceding insurer's gross written premium in the prior calendar year, or after it has
 411 determined that the reinsurance ceded to any single assuming insurer, or group of
 412 affiliated assuming insurers, is likely to exceed this limit. The notification shall
 413 demonstrate that the exposure is safely managed by the domestic ceding insurer.

414 (b) ~~A~~ An asset or a reduction from liability for the reinsurance ceded by a domestic insurer
 415 to an assuming insurer not meeting the requirements of subsection (a) of this Code section
 416 shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer and
 417 such reduction shall be in the amount of funds held by or on behalf of the ceding insurer,
 418 including funds held in trust for the ceding insurer, under a reinsurance contract with such
 419 assuming insurer as security for the payment of obligations thereunder, if such security is
 420 held in the United States subject to withdrawal solely by, and under the exclusive control
 421 of, the ceding insurer; or, in the case of a trust, held in a qualified United States financial

422 institution, as defined in paragraph (2) of subsection (c) of this Code section. This security
 423 may be in the form of:

424 (1) Cash;

425 (2) Securities listed by the Securities Valuation Office of the National Association of
 426 Insurance Commissioners, including those deemed exempt from filing as defined by the
 427 Purposes and Procedures Manual of the Securities Validation Office, and qualifying as
 428 admitted assets;

429 (3) Clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified
 430 United States institution, as defined in paragraph (1) of subsection (c) of this Code
 431 section, no later than December 31 of the year for which filing is being made, and in the
 432 possession of, or in the trust for, the ceding ~~company~~ insurer on or before the filing date
 433 of its annual statement. Letters of credit meeting applicable standards of issuer
 434 acceptability as of the dates of their issuance or confirmation shall, notwithstanding the
 435 issuing or confirming institution's subsequent failure to meet applicable standards of
 436 issuer acceptability, continue to be acceptable as security until their expiration, extension,
 437 renewal, modification, or amendment, whichever first occurs; or

438 (4) Any other form of security acceptable to the Commissioner.

439 (c)(1) For purposes of paragraph (3) of subsection (b) of this Code section, 'qualified
 440 United States financial institution' means an institution that:

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

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

445 (C) Has been determined by either the Commissioner or the Securities Valuation
 446 Office of the National Association of Insurance Commissioners to meet such standards
 447 of financial condition and standing as are considered necessary and appropriate to
 448 regulate the quality of financial institutions whose letters of credit will be acceptable
 449 to the Commissioner.

450 (2) A 'qualified United States financial institution' means, for the purposes of those
 451 provisions of this Code section specifying those institutions that are eligible to act as a
 452 fiduciary of a trust, an institution that:

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

456 (B) Is regulated, supervised, and examined by federal or state authorities having
 457 regulatory authority over banks and trust companies."

458

SECTION 6.

459 Said title is further amended by revising paragraph (1) of subsection (c) of Code
460 Section 33-24-45, relating to cancellation or nonrenewal of automobile or motorcycle
461 policies and procedure for review by Commissioner, as follows:

462 "(1) The named insured failed to discharge when due any of his obligations in connection
463 with the payment of premiums on such policy or any installment of premiums or the
464 renewal of premiums, whether payable directly to the insurer or indirectly to the agent.
465 Notwithstanding the provisions of subsection (d) of Code Section 33-24-44, such notice
466 of cancellation issued to an insured, who is paying on a monthly basis, may be included
467 with the bill issued to the insured, provided that the bill is mailed to the insured at least
468 ten days prior to the due date;".

469

SECTION 7.

470 All laws and parts of laws in conflict with this Act are repealed.