

Introduced by

Industry, Business and Labor Committee

(At the request of the Insurance Commissioner)

1 A BILL for an Act to amend and reenact sections 26.1-31.2-01, 26.1-31.2-02, 26.1-31.2-03, and  
2 26.1-31.2-04 of the North Dakota Century Code, relating to reinsurance credit of insurers.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 26.1-31.2-01 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **26.1-31.2-01. Credit allowed a domestic ceding insurer.**

7 Credit for reinsurance must be allowed a domestic ceding insurer as either an asset or a  
8 ~~deduction~~reduction from liability on account of reinsurance ceded only when the reinsurer  
9 meets the requirements of ~~either~~ subsection 1, 2, 3, 4, ~~or~~ 5, or 6. Credit will be allowed under  
10 subsection 1, 2, or 3 only with respect to cessions of a kind or class of business that the  
11 assuming insurer is licensed or otherwise ~~allowed~~permitted to write or assume in its state of  
12 domicile or, in the case of a United States branch of an alien assuming insurer, in the state  
13 through which it is entered and licensed to transact insurance or reinsurance. ~~If meeting the~~  
14 ~~requirements of~~ Credit must be allowed under subsection 3 or 4; only if the applicable  
15 ~~requirements of subsection 6 must also be met~~7 have been satisfied.

- 16 1. Credit must be allowed when the reinsurance is ceded to an assuming insurer ~~or~~  
17 ~~nonprofit health service corporation which~~that is licensed to transact insurance or  
18 reinsurance in this state.
- 19 2. Credit must be allowed when the reinsurance is ceded to an assuming insurer which is  
20 accredited by the commissioner as a reinsurer in this state. ~~An accredited~~In order to  
21 be eligible for accreditation, a reinsurer is one which:
- 22 a. ~~Files~~Shall file with the commissioner evidence of its submission to this state's  
23 jurisdiction;
- 24 b. ~~Submits~~Shall submit to this state's authority to examine its books and records;

- 1           c. ~~Is~~Must be licensed to transact insurance or reinsurance in at least one state, or,  
2           in the case of a United States branch of an alien assuming insurer, ~~is~~be entered  
3           through and licensed to transact insurance or reinsurance in at least one state;  
4           and
- 5           d. ~~Files annually~~Annually, shall file with the commissioner a copy of its annual  
6           statement filed with the insurance department of its state of domicile and a copy  
7           of its most recent audited financial statement; and either
- 8           (1) ~~Maintains~~
- 9           e. Shall demonstrate to the satisfaction of the commissioner the assuming insurer  
10          has adequate financial capacity to meet the assuming insurer's reinsurance  
11          obligations and is otherwise qualified to assume reinsurance from domestic  
12          insurers. An assuming insurer is deemed to meet this requirement as of the time  
13          of application the assuming insurer maintains a surplus as regards policyholders  
14          in an amount which is not less than twenty million dollars and whosethe  
15          assuming insurer's accreditation has not been denied by the commissioner within  
16          ninety days of itsafter submission; ~~or~~
- 17          (2) ~~Maintains a surplus as regards policyholders in an amount less than twenty-~~  
18          ~~million dollars and whose accreditation has been approved by the~~  
19          ~~commissioner.~~
- 20          ~~No credit may be allowed a domestic ceding insurer if the assuming insurer's~~  
21          ~~accreditation has been revoked by the commissioner after notice and hearing of~~  
22          ~~its application.~~
- 23          3. a. Credit must be allowed when the reinsurance is ceded to an assuming insurer  
24          ~~which is domiciled and licensed in, or in the case of a United States branch of an~~  
25          alien assuming insurer, is entered through, a state which employs standards  
26          regarding credit for reinsurance substantially similar to those applicable under  
27          this statute and the assuming insurer or United States branch of an alien  
28          assuming insurer:
- 29          a. (1) Maintains a surplus as regards policyholders in an amount not less than  
30                twenty million dollars; and
- 31          b. (2) Submits to the authority of this state to examine its books and records.

1            Provided, however, that the

2            b. The requirement of subdivision a does not apply to reinsurance ceded and  
3            assumed pursuant to pooling arrangements among insurers in the same holding  
4            company system.

5            4. a. Credit must be allowed when the reinsurance is ceded to an assuming insurer  
6            ~~which that~~ maintains a trust fund in a qualified United States financial institution,  
7            as defined in subsection 2 of section 26.1-31.2-03, for the payment of valid  
8            claims of its United States ~~policyholders and~~ ceding insurers, their assigns, and  
9            successors in interest. ~~The~~ To enable the commissioner to determine the  
10           sufficiency of the trust fund, the assuming insurer shall report annually to the  
11           commissioner information substantially the same as that required to be reported  
12           on the national association of insurance commissioners annual statement form  
13           by licensed insurers ~~to enable the commissioner to determine the sufficiency of~~  
14           ~~the trust fund. In the case of.~~ The assuming insurer shall submit to examination of  
15           the insurer's books and records by the commissioner and bear the expense of  
16           examination.

17           b. (1) Credit for reinsurance may not be granted under this subsection unless the  
18           form of the trust and any amendments to the trust have been approved by:  
19           (a) The commissioner of the state in which the trust is domiciled; or  
20           (b) The commissioner of another state who, pursuant to the terms of the  
21           trust instrument, accepted principal regulatory oversight of the trust.

22           (2) The form of the trust and any trust amendments also must be filed with the  
23           commissioner of every state in which the ceding insurer beneficiaries of the  
24           trust are domiciled. The trust instrument must provide that contested claims  
25           are valid and enforceable upon the final order of any court of competent  
26           jurisdiction in the United States. The trust must vest legal title to the trust's  
27           assets in the trust's trustees for the benefit of the assuming insurer's United  
28           States ceding insurers, their assigns, and successors in interest. The trust  
29           and the assuming insurer are subject to examination as determined by the  
30           commissioner.

1           (3) The trust shall remain in effect for as long as the assuming insurer has  
2           outstanding obligations due under the reinsurance agreements subject to  
3           the trust. No later than February twenty-eighth of each year the trustee of  
4           the trust shall report to the commissioner in writing the balance of the trust  
5           and listing of the trust's investments at the preceding year-end and shall  
6           certify the date of termination of the trust, if so planned, or certify the trust  
7           will not expire before the following December thirty-first.

8           c. The following requirements apply to the following categories of assuming insurer:

9           (1) The trust fund for a single assuming insurer, ~~the trust must consist of a~~  
10          trusteed account representing the must consist of funds in trust in an  
11          amount not less than the assuming insurer's liabilities attributable to  
12          reinsurance ceded by United States ceding insurers and, in addition, the  
13          assuming insurer shall maintain a trusteed surplus of not less than twenty  
14          million dollars, except as provided in paragraph 2.

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

30          (3) (a) In the case of a group, including incorporated and individual  
31                unincorporated underwriters;

- 1 [1] For reinsurance ceded under a reinsurance agreement with an  
2 inception, amendment, or renewal date after December 31,  
3 1992, the trust must consist of a trustee account representing  
4 the group's liabilities in an amount not less than the respective  
5 underwriters' several liabilities attributable to business ceded by  
6 United States domiciled ceding insurers to any underwriter of the  
7 group;
- 8 [2] For reinsurance ceded under a reinsurance agreement with an  
9 inception date before January 1, 1993, and not amended or  
10 renewed after that date, notwithstanding the other provisions of  
11 this chapter, the trust must consist of a trustee account in an  
12 amount not less than the respective underwriters' several  
13 insurance and reinsurance liabilities attributable to business  
14 written in the United States; and, in
- 15 [3] In addition to these trusts, the group shall maintain a trustee  
16 surplus of which one hundred million dollars which must be held  
17 jointly for the benefit of the United States domiciled ceding  
18 insurers of any member of the group for all years of account; the,
- 19 (b) The incorporated members of the group may not be engaged in any  
20 business other than underwriting as a member of the group and are  
21 subject to the same level of solvency regulation and solvency control  
22 by the group's domiciliary regulator as are the unincorporated  
23 members.
- 24 (c) Within ninety days after its financial statements are due to be filed  
25 with the group's domiciliary regulator, the group shall provide to the  
26 commissioner an annual certification of the solvency of each  
27 underwriter by the group's domiciliary regulator of the solvency of  
28 each underwriter member; or if a certification is unavailable, financial  
29 statements prepared by each underwriter's independent public  
30 accountants of each underwriter member of the group.

- 1           b- (4) In the case of a group of incorporated ~~insurers~~underwriters under common  
2           administration ~~which complies with the filing requirements contained in~~  
3           ~~subdivision a, and which has, the group:~~
- 4           (a) Must have continuously transacted an insurance business outside the  
5           United States for at least three years immediately prior to making  
6           application for accreditation ~~and submits to this state's authority to~~  
7           ~~examine its books and records and bears the expense of the~~  
8           ~~examination, and which has:~~
- 9           (b) Shall maintain aggregate policyholders' surplus of at least ten billion  
10          dollars; the
- 11          (c) Shall maintain a trust must be fund in an amount ~~equal to~~not less than  
12          the group's several liabilities attributable to business ceded by United  
13          States domiciled ceding insurers to any member of the group  
14          pursuant to reinsurance contracts issued in the name of ~~such~~the  
15          group ~~plus the group shall;~~
- 16          (d) Shall maintain a joint trustee surplus of which one hundred million  
17          dollars must be held jointly ~~and exclusively~~ for the benefit of United  
18          States domiciled ceding insurers of any member of the group as  
19          additional security for ~~any such~~these liabilities; ~~and~~
- 20          (e) Within ninety days after its financial statements are due to be filed  
21          with the group's domiciliary regulator, ~~each member of the group shall~~  
22          make available to the commissioner an annual certification of ~~the~~each  
23          underwriter member's solvency by the member's domiciliary regulator  
24          and financial statements of each underwriter member of the group  
25          prepared by its independent public accountant.
- 26          e. ~~The trust and any amendments to the trust must be established in a form~~  
27          ~~approved by the commissioner of the state where the trust is domiciled or the~~  
28          ~~commissioner of another state who, pursuant to the terms of the trust instrument,~~  
29          ~~has accepted principal regulatory oversight of the trust. The form of the trust and~~  
30          ~~any trust amendments also must be filed with the commissioner of every state in~~  
31          ~~which the ceding insurer beneficiaries of the trust are domiciled. The trust~~

1 instrument must provide that contested claims must be valid and enforceable  
2 upon the final order of any court of competent jurisdiction in the United States.  
3 The trust must vest legal title to its assets in the trustees of the trust for its United  
4 States policyholders and ceding insurers, their assigns, and successors in  
5 interest. The trust and the assuming insurer are subject to examination as  
6 determined by the commissioner. The trust described herein must remain in  
7 effect for as long as the assuming insurer, or any member or former member of a  
8 group of insurers, has outstanding obligations due under the reinsurance  
9 agreements subject to the trust.

10 d. No later than February twenty eighth of each year the trustees of the trust shall  
11 report to the commissioner in writing setting forth the balance of the trust and  
12 listing the trust's investments at the preceding yearend and shall certify the date  
13 of termination of the trust, if so planned, or certify that the trust will not expire  
14 prior to the next following December thirty first.

15 5. Credit must be allowed when the reinsurance is ceded to an assuming insurer that has  
16 been certified by the commissioner as a reinsurer in this state and secures the  
17 assuming insurer's obligations in accordance with the requirements of this subsection.

18 a. In order to be eligible for certification, the assuming insurer shall meet the  
19 following requirements:

20 (1) The assuming insurer must be domiciled and licensed to transact insurance  
21 or reinsurance in a qualified jurisdiction, as determined by the commissioner  
22 pursuant to subdivision c:

23 (2) The assuming insurer shall maintain minimum capital and surplus, or its  
24 equivalent, in an amount to be determined by the commissioner pursuant to  
25 rule:

26 (3) The assuming insurer shall maintain financial strength ratings from two or  
27 more rating agencies deemed acceptable by the commissioner pursuant to  
28 rule:

29 (4) The assuming insurer shall agree to submit to the jurisdiction of this state,  
30 appoint the commissioner as its agent for service of process in this state,  
31 and agree to provide security for one hundred percent of the assuming

1 insurer's liabilities attributable to reinsurance ceded by United States ceding  
2 insurers if the assuming insurer resists enforcement of a final United States  
3 judgment:

4 (5) The assuming insurer shall agree to meet applicable information filing  
5 requirements as determined by the commissioner, both with respect to an  
6 initial application for certification and on an ongoing basis; and

7 (6) The assuming insurer shall satisfy any other requirements for certification  
8 deemed relevant by the commissioner.

9 b. An association, including incorporated and individual unincorporated  
10 underwriters, may be a certified reinsurer. In order to be eligible for certification,  
11 in addition to satisfying requirements of subdivision a:

12 (1) The association shall satisfy its minimum capital and surplus requirements  
13 through the capital and surplus equivalents, net of liabilities, of the  
14 association and the association's members which must include a joint  
15 central fund that may be applied to any unsatisfied obligation of the  
16 association or any of the association's members, in an amount determined  
17 by the commissioner to provide adequate protection;

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

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

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



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

14          (2) A list of qualified jurisdictions must be published through the national  
15          association of insurance commissioner committee process. The  
16          commissioner shall consider this list in determining qualified jurisdictions. If  
17          the commissioner approves a jurisdiction as qualified which does not appear  
18          on the list of qualified jurisdictions, the commissioner shall provide  
19          thoroughly documented justification in accordance with criteria to be  
20          developed under regulations.

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

24          (4) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified  
25          jurisdiction, in lieu of revocation, the commissioner may suspend the  
26          reinsurer's certification indefinitely.

27          d. The commissioner shall assign a rating to each certified reinsurer. Giving due  
28          consideration to the financial strength ratings that have been assigned by rating  
29          agencies deemed acceptable to the commissioner pursuant to rule. The  
30          commissioner shall publish a list of all certified reinsurers and the reinsurer's  
31          ratings.

1           e. A certified reinsurer shall secure obligations assumed from United States ceding  
2           insurers under this subsection at a level consistent with the certified reinsurer's  
3           rating, as specified in rules adopted by the commissioner.

4           (1) In order for a domestic ceding insurer to qualify for full financial statement  
5           credit for reinsurance ceded to a certified reinsurer, the certified reinsurer  
6           shall maintain security in a form acceptable to the commissioner and  
7           consistent with the provisions of section 26.1-31.2-02 or in a  
8           multibeneficiary trust in accordance with subsection 4, except as otherwise  
9           provided in this subsection.

10          (2) If a certified reinsurer maintains a trust to fully secure the certified  
11          reinsurer's obligations subject to subsection 4, and chooses to secure the  
12          certified reinsurer's obligations incurred as a certified reinsurer in the form of  
13          a multibeneficiary trust, the certified reinsurer shall maintain separate trust  
14          accounts for the certified reinsurer's obligations incurred under reinsurance  
15          agreements issued or renewed as a certified reinsurer with reduced security  
16          as permitted by this subsection or comparable laws of other United States  
17          jurisdictions and for the certified reinsurer's obligations subject to  
18          subsection 4. As a condition to the grant of certification under subsection 5,  
19          the certified reinsurer must have bound itself, by the language of the trust  
20          and agreement with the commissioner with principal regulatory oversight of  
21          each such trust account, to fund, upon termination of any such trust  
22          account, out of the remaining surplus of such trust any deficiency of any  
23          other such trust account.

24          (3) The minimum trustee surplus requirements provided in subsection 4 are  
25          not applicable with respect to a multibeneficiary trust maintained by a  
26          certified reinsurer for the purpose of securing obligations incurred under this  
27          subsection, except that such trust must maintain a minimum trustee  
28          surplus of ten million dollars.

29          (4) With respect to obligations incurred by a certified reinsurer under this  
30          subsection, if the security is insufficient, the commissioner shall reduce the  
31          allowable credit by an amount proportionate to the deficiency, and may

1 impose further reductions in allowable credit upon finding there is a material  
2 risk the certified reinsurer's obligations will not be paid in full when due.

3 (5) For purposes of this subsection, a certified reinsurer whose certification has  
4 been terminated for any reason must be treated as a certified reinsurer  
5 required to secure one hundred percent of the certified reinsurer's  
6 obligations.

7 (a) As used in this subsection, "terminated" refers to revocation,  
8 suspension, voluntary surrender, and inactive status.

9 (b) If the commissioner continues to assign a higher rating as permitted  
10 by other provisions of this section, this requirement does not apply to  
11 a certified reinsurer in inactive status or to a reinsurer whose  
12 certification has been suspended.

13 f. If an applicant for certification has been certified as a reinsurer in a national  
14 association of insurance commissioners accredited jurisdiction, the commissioner  
15 may defer to that jurisdiction's certification, and may defer to the rating assigned  
16 by that jurisdiction, and such assuming insurer must be considered to be a  
17 certified reinsurer in this state.

18 g. A certified reinsurer that ceases to assume new business in this state may  
19 request to maintain the certified reinsurer's certification in inactive status in order  
20 to continue to qualify for a reduction in security for the certified reinsurer's in-force  
21 business. An inactive certified reinsurer shall continue to comply with all  
22 applicable requirements of this subsection, and the commissioner shall assign a  
23 rating that takes into account, if relevant, the reasons why the reinsurer is not  
24 assuming new business.

25 ~~6.~~ Credit must be allowed when the reinsurance is ceded to an assuming insurer not  
26 meeting the requirements of subsection 1, 2, 3, or 4, or 5 but only with respect to  
27 the insurance of risks located in jurisdictions where the reinsurance is required by  
28 applicable law or regulation of that jurisdiction.

29 ~~6-7.~~ a. If the assuming insurer is not licensed or, accredited, or certified to transact  
30 insurance or reinsurance in this state, the credit permitted by subsections 3 and 4

1           may not be allowed unless the assuming insurer agrees in the reinsurance  
2           agreements:

3           a. (1) In the event of the failure of the assuming insurer to perform its obligations  
4           under the terms of the reinsurance agreement, the assuming insurer, at the  
5           request of the ceding insurer, shall submit to the jurisdiction of any court of  
6           competent jurisdiction in any state of the United States, will comply with all  
7           requirements necessary to give ~~such~~the court jurisdiction, and will abide by  
8           the final decision of ~~such~~the court or of any appellate court in the event of  
9           an appeal; and

10          b. (2) To designate the commissioner or a designated attorney as its true and  
11          lawful attorney upon whom may be served any lawful process in any action,  
12          suit, or proceeding instituted by or on behalf of the ceding ~~company~~insurer.

13          b. This ~~provision~~subsection is not intended to conflict with or override the obligation  
14          of the parties to a reinsurance agreement to arbitrate their disputes, if ~~such an~~this  
15          obligation is created in the agreement.

16          8. If the assuming insurer does not meet the requirements of subsection 1, 2, or 3, the  
17          credit permitted by subsection 4 or 5 may not be allowed unless the assuming insurer  
18          agrees in the trust agreements to the following conditions:

19          a. Notwithstanding any other provisions in the trust instrument, if the trust fund is  
20          inadequate because the trust fund contains an amount less than the amount  
21          required by subdivision c of subsection 4, or if the grantor of the trust has been  
22          declared insolvent or placed into receivership, rehabilitation, liquidation, or similar  
23          proceedings under the laws of its state or country of domicile, the trustee shall  
24          comply with an order of the commissioner with regulatory oversight over the trust  
25          or with an order of a court of competent jurisdiction directing the trustee to  
26          transfer to the commissioner with regulatory oversight all of the assets of the trust  
27          fund.

28          b. The assets must be distributed by and claims must be filed with and valued by  
29          the commissioner with regulatory oversight in accordance with the laws of the  
30          state in which the trust is domiciled which are applicable to the liquidation of  
31          domestic insurers.

- 1           c. If the commissioner with regulatory oversight determines the assets of the trust  
2           fund or any part of this trust fund are not necessary to satisfy the claims of the  
3           United States ceding insurers of the grantor of the trust, the assets or part of the  
4           assets must be returned by the commissioner with regulatory oversight to the  
5           trustee for distribution in accordance with the trust agreement.
- 6           d. The grantor shall waive any right otherwise available to the grantor under United  
7           States law that is inconsistent with this provision.
- 8           9. If an accredited or certified reinsurer ceases to meet the requirements for accreditation  
9           or certification, the commissioner may suspend or revoke the reinsurer's accreditation  
10           or certification.
- 11           a. The commissioner shall give the reinsurer notice and opportunity for a hearing.  
12           The suspension or revocation may not take effect until after the commissioner's  
13           order on a hearing, unless:
- 14           (1) The reinsurer waives the reinsurer's right to a hearing;  
15           (2) The commissioner's order is based on regulatory action by the reinsurer's  
16           domiciliary jurisdiction or the voluntary surrender or termination of the  
17           reinsurer's eligibility to transact insurance or reinsurance business in the  
18           reinsurer's domiciliary jurisdiction or in the primary certifying state of the  
19           reinsurer under subdivision f of subsection 5; or
- 20           (3) The commissioner finds an emergency requires immediate action and a  
21           court of competent jurisdiction has not stayed the commissioner's action.
- 22           b. During the period of suspension of a reinsurer's accreditation or certification, a  
23           reinsurance contract issued or renewed after the effective date of the suspension  
24           does not qualify for credit except to the extent that the reinsurer's obligations  
25           under the contract are secured in accordance with section 26.1-31.2-02. If a  
26           reinsurer's accreditation or certification is revoked, credit for reinsurance may not  
27           be granted after the effective date of the revocation, except to the extent the  
28           reinsurer's obligations under the contract are secured in accordance with  
29           subdivision e of subsection 6 or section 26.1-31.2-02.
- 30           10. a. A ceding insurer shall take steps to manage the ceding insurer's reinsurance  
31           recoverables proportionate to the ceding insurer's own book of business. A

1           domestic ceding insurer shall notify the commissioner within thirty days after  
2           reinsurance recoverables from any single assuming insurer, or group of affiliated  
3           assuming insurers, exceed fifty percent of the domestic ceding insurer's last  
4           reported surplus to policyholders, or after it is determined reinsurance  
5           recoverables from any single assuming insurer, or group of affiliated assuming  
6           insurers, is likely to exceed this limit. The notification must demonstrate the  
7           exposure is safely managed by the domestic ceding insurer.

8           b. A ceding insurer shall take steps to diversify the ceding insurer's reinsurance  
9           program. A domestic ceding insurer shall notify the commissioner within thirty  
10           days after ceding to any single assuming insurer, or group of affiliated assuming  
11           insurers, more than twenty percent of the ceding insurer's gross written premium  
12           in the prior calendar year, or after the ceding insurer's determined the  
13           reinsurance ceded to any single assuming insurer, or group of affiliated assuming  
14           insurers, is likely to exceed this limit. The notification must demonstrate the  
15           exposure is safely managed by the domestic ceding insurer.

16           **SECTION 2. AMENDMENT.** Section 26.1-31.2-02 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18           **26.1-31.2-02. ReductionAsset or reduction from liability for reinsurance ceded by a**  
19 **domestic insurer to an assuming insurer not meeting the requirements of section**  
20 **26.1-31.2-01.**

21           AAn asset or reduction from liability for the reinsurance ceded by a domestic insurer to an  
22 assuming insurer not meeting the requirements of section 26.1-31.2-01 must be allowed in an  
23 amount not exceeding the liabilities carried by the ceding insurer ~~and such~~. The reduction must  
24 be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust  
25 for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the  
26 payment of obligations thereunder, if the security is held in the United States subject to  
27 withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a  
28 trust, held in a qualified United States financial institution, as defined in subsection 2 of section  
29 26.1-31.2-03. This security may be in the form of:

30           1. Cash;

- 1           2.   Securities listed by the securities valuation office of the national association of  
2           insurance commissioners, including those securities deemed exempt from filing as  
3           defined by the purposes and procedures manual of the securities valuation office, and  
4           qualifying as admitted assets;
- 5           3.   a.   Clean, irrevocable, unconditional, ~~and evergreen~~ letters of credit issued or  
6           confirmed by a qualified United States institution, as defined in subsection 1 of  
7           section 26.1-31.2-03, effective no later than December thirty-first ~~in respect of the~~  
8           year for which the filing is being made, and in the possession of, or in trust for,  
9           the ceding ~~company~~insurer on or before the filing date of its annual statement; or
- 10          b.   Letters of credit meeting applicable standards of issuer acceptability as of the  
11          dates of their issuance or confirmation must, notwithstanding the issuing or  
12          confirming institution's subsequent failure to meet applicable standards of issuer  
13          acceptability, continue to be acceptable as security until their expiration,  
14          extension, renewal, modification, or amendment, whichever first occurs; or
- 15          4.   Any other form of security acceptable to the commissioner.

16          **SECTION 3. AMENDMENT.** Section 26.1-31.2-03 of the North Dakota Century Code is  
17          amended and reenacted as follows:

18          **26.1-31.2-03. Qualified United States financial institutions.**

- 19          1.   For purposes of subsection 3 of section 26.1-31.2-02, a "qualified United States  
20          financial institution" means an institution that:
- 21          a.   Is organized, or in case of a United States office of a foreign banking  
22          organization, is licensed, under the laws of the United States or any state thereof;
- 23          b.   Is regulated, supervised, and examined by United States federal or state  
24          authorities having regulatory authority over banks and trust companies; and
- 25          c.   Has been determined by either the commissioner, or the securities valuation  
26          office of the national association of insurance commissioners, to meet such  
27          standards of financial condition and standing as are considered necessary and  
28          appropriate to regulate the quality of financial institutions whose letters of credit  
29          will be acceptable to the commissioner.

1           2. A "qualified United States financial institution" means, for purposes of those provisions  
2           of this chapter specifying those institutions that are eligible to act as a fiduciary of a  
3           trust, an institution that:

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

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

10           **SECTION 4. AMENDMENT.** Section 26.1-31.2-04 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12           **26.1-31.2-04. Rulemaking authority.**

13           The commissioner may adopt reasonable rules for the implementation and administration of  
14 this chapter.