

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; and
3 to provide an effective date.

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

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

7 **26.1-31.2-01. Credit allowed a domestic ceding insurer.**

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

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

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

1 b- (2) Submits to the authority of this state to examine its books and records.

2 Provided, however, that the

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

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

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

23 (2) The form of the trust and any trust amendments also must be filed with the
24 commissioner of every state in which the ceding insurer beneficiaries of the
25 trust are domiciled. The trust instrument must provide that contested claims
26 are valid and enforceable upon the final order of any court of competent
27 jurisdiction in the United States. The trust must vest legal title to the trust's
28 assets in the trust's trustees for the benefit of the assuming insurer's United
29 States ceding insurers, their assigns, and successors in interest. The trust
30 and the assuming insurer are subject to examination as determined by the
31 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 c. Credit for reinsurance ceded to a certified reinsurer is limited to reinsurance
17 contracts entered or renewed on or after the effective date of the commissioner's
18 certification of the assuming insurer.

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

21 **26.1-31.2-02. Reduction**~~Asset or reduction~~ **from liability for reinsurance ceded by a**
22 **domestic insurer to an assuming insurer not meeting the requirements of section**
23 **26.1-31.2-01.**

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

1 trust, held in a qualified United States financial institution, as defined in subsection 2 of section
2 26.1-31.2-03. This security may be in the form of:

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

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

21 **26.1-31.2-03. Qualified United States financial institutions.**

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

1 appropriate to regulate the quality of financial institutions whose letters of credit
2 will be acceptable to the commissioner.

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

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

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

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

14 **26.1-31.2-04. Rulemaking authority.**

15 The commissioner may adopt reasonable rules for the implementation and administration of
16 this chapter.

17 **SECTION 5. EFFECTIVE DATE.** This Act becomes effective on January 1, 2016.