

## 10. Reinsurance Ceded

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State law should contain the NAIC *Credit for Reinsurance Model Law* (#785), the NAIC's *Credit for Reinsurance Model Regulation* (#786) and the NAIC *Life and Health Reinsurance Agreements Model Regulation* (#791) or substantially similar laws.

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### ***Changes to the Accreditation Standard:***

~~\*NOTE: For both full reviews and interim annual reviews, this standard must be completed in its entirety. Please include all applicable citations in the reference column for each of the questions in this particular standard.~~

~~The 2011 revisions to the *Credit for Reinsurance Model Law* (#785) and *Regulation* (#786), or a substantially similar law, was adopted as an update to the accreditation standard effective January 1, 2019.~~

~~Please provide a copy of the statute or regulation that specifically addresses the newly applicable sections.~~

~~Additionally, if there were any other changes that would impact one of the significant elements of this standard, please place an asterisk (\*) in the reference column on the right hand side of the page by each citation that has been changed and include below a brief description of the nature or reason for the change. Please also attach a copy of the statutes or regulations that had a change and ensure that they are clearly marked for the changes that have been made (i.e., highlight the changes, redlined version, etc.).~~

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## REFERENCE

*Credit for Reinsurance Model Law* (#785)

- a. Credit allowed for reinsurance ceded to a licensed insurer? \_\_\_\_\_
- b. Credit allowed for reinsurance ceded to an accredited insurer who meets requirements similar to those in Section 2B and 212J of the model law? \_\_\_\_\_
- c. Credit allowed for reinsurance ceded to an insurer domiciled and licensed in a state which employs substantially similar standards regarding credit for reinsurance and who maintains capital and surplus of at least \$20,000,000 and submits to this states authority to examine its books and records? \_\_\_\_\_
- d. Credit allowed for reinsurance ceded to an insurer who maintains a trust fund, established in a form approved by the commissioner, in a qualified U.S. financial institution for the payment of the valid claims of its U.S. policyholders and ceding insurers, their assigns and successors in interest and who reports financial information annually to the commissioner to determine the sufficiency of the trust fund? \_\_\_\_\_
- e. In instances where reinsurance is ceded to insurers maintaining a trust fund, trustees of the trust required to report to the department annually, on or before February 28, the balance of the trust and a listing of the trust's assets as of the end of the year and a certification of the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31? \_\_\_\_\_

**REFERENCE**

*Reinsurance Ceded – continued*

- f. Credit for reinsurance allowed under c. or d. above only permitted where assuming insurer agrees in the reinsurance agreements: 1) that in the event of a failure of the assuming insurer to perform its obligations, the assuming insurer shall submit to the jurisdiction of any court of competent jurisdiction in any state of the U.S.; and 2) to designate the commissioner or a designated attorney as its true and lawful attorney upon whom may be served any lawful process instituted by or on behalf of the ceding company?  

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- g. Credit allowed for reinsurance ceded to an insurer not meeting the requirements of a., b., c., or d. above, or with respect to a certified reinsurer described below, in an amount not exceeding the liabilities carried by the ceding insurer and only in the amount of funds held by or on behalf of the ceding insurer in the form of cash, securities listed by the Securities Valuation Office of the NAIC, including those deemed exempt from filing as defined by the *Purposes and Procedures Manual of the Securities Valuation Office*, and qualifying as admitted assets, clean, irrevocable, unconditional letters of credit, and other forms of security acceptable to the commissioner?  

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- h. Ceding insurers must be subject to notification requirements with respect to reinsurance concentration risk substantially similar to those in Section ~~212K~~ of Model #785.  

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*Life and Health Reinsurance Agreements Model Regulation (#791)*

- i. Scope similar to Section 3?  

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- j. No insurer, for reinsurance ceded establishes any asset or reduces any liability due to the terms of the reinsurance agreement, in substance or effect if any of the conditions in Section 4A exist?  

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- k. Agreements entered into after the effective date of this regulation which involve the reinsurance of business issued prior to the effective date of agreements, along with subsequent amendments shall be filed by the ceding company with the commissioner within 30 days from the execution date along with attachments noted in Section 4C(1)?  

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- l. Any increase in surplus net of federal income tax resulting from arrangements described in Section 4C(1) to be reported as described in Section 4C(2)?  

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- m. Written agreements with provisions similar to Section 5?  

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- n. Insurers required to reduce to zero any reserve credits or assets established with respect to existing reinsurance agreements entered into prior to the effective date of this regulation which would not be recognized under the provisions of this regulation?  

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Credit for Reinsurance Model Regulation (#786)

- o. Credit for reinsurance allowed for reinsurance ceded by domestic insurers to assuming insurers that were licensed in the state as of the last date of the ceding insurers’ statutory financial statement?
- p. Credit for reinsurance provisions for accredited reinsurer similar to Section 5?
- q. Credit for reinsurance provisions for reinsurers licensed and domiciled in other states similar to Section 6?
- r. Credit for reinsurance provisions for reinsurers maintaining trust funds similar to Section 7?
- s. Credit for reinsurance required by law similar to Section ~~9~~10?
- t. Reduction from liability for reinsurance ceded to an unauthorized assuming insurer similar to Section ~~10~~11?
- u. Provisions for trust agreements similar to Section ~~11~~12?
- v. Provisions for letters of credit similar to Section ~~12~~13?
- w. Provisions for unencumbered funds similar to Section ~~13~~14?
- x. Provisions for reinsurance contracts similar to Section ~~14~~15?
- y. The adoption of Form AR-1—Certificate of Assuming Insurer.

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Reinsurance Ceded to Certified Reinsurers

- z. A state’s laws and regulations shall allow credit for reinsurance ceded to a certified reinsurer, including affiliated reinsurance transactions. Its laws and regulations shall contain provisions that are substantially similar to those applicable to certified reinsurers contained in Section 2E of Model #785 and Section 8 of Model #786.
  - i. The credit allowed is based upon the security held by or on behalf of the ceding insurer in accordance with the rating assigned to the certified reinsurer by the commissioner? The amount of security required in order for full credit to be allowed shall not be less than that required under Section 8A(1) of Model # 786.
  - ii. The security provided by the certified reinsurer is in a form consistent with the provisions of Section 2E(5) of Model #785 and Section 8A of Model #786?
  - iii. The commissioner requires the certified reinsurer to post 100% security upon the entry of an order of rehabilitation, liquidation or conservation against the ceding insurer?

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**REFERENCE**

- iv. A state’s laws or regulations shall include provisions for granting a certified reinsurer a deferral period for posting security applicable to catastrophe recoverables, substantially similar to Section 8A(4) of Model #786. The deferral period shall not exceed one year from the date of the first instance of a liability reserve entry by the ceding company as a result of a loss from a catastrophic occurrence as recognized by the commissioner, and shall not apply to lines of business other than those provided in Section 8A(4) of Model #786.
- v. Credit for reinsurance ceded to a certified reinsurer shall apply only to reinsurance contracts meeting requirements substantially similar to Section 8A(5) of Model #786?
- aa. In order to be a certified reinsurer, an assuming insurer must be certified by the commissioner in accordance with the process similar to Section 8B of Model #786?
  - i. The commissioner is required to post notice upon receipt of any application for certification substantially similar to the requirements of Section 8B(1) of Model #786?
  - ii. The commissioner is required to publish a list of all certified reinsurers and their ratings substantially similar to the requirements in Section 2E(4) of Model #785 and Section 8B(2) of Model #786?
  - iii. A certified reinsurer must be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the commissioner?
  - iv. A certified reinsurer must maintain capital and surplus, or its equivalent, of no less than \$250,000,000, calculated in accordance with Section 8B(4)(h) of Model #786? This requirement may also be satisfied by an association including incorporated and individual unincorporated underwriters having minimum capital and surplus equivalents (net of liabilities) of at least \$250,000,000 and a central fund containing a balance of at least \$250,000,000.
  - v. A certified reinsurer must maintain financial strength ratings from two or more rating agencies deemed acceptable by the commissioner, and the maximum rating that a certified reinsurer may be assigned will correspond to its financial strength rating as set forth in Section 8B(4)(a) of Model #786? These ratings must be based on interactive communication between the rating agency and the assuming insurer and not based solely on publicly available information.

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vi. A certified reinsurer is rated by the commissioner on a legal entity basis, with consideration given to the group rating where appropriate (an association including incorporated and individual unincorporated underwriters that have been approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating)? Factors may be considered in the evaluation process similar to those provided under Section 8B(4) and (5) of Model #786.

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vii. A certified reinsurer must submit a properly executed Form CR-1 as evidence of its submission to the jurisdiction of the state, appointment of the commissioner as an agent for service of process in the state, and agreement to provide security for one hundred percent (100%) of its liabilities attributable to reinsurance ceded by ceding insurers if it resists enforcement of a final U.S. judgment? The commissioner must not certify any assuming insurer that is domiciled in a jurisdiction that the commissioner has determined does not adequately and promptly enforce final U.S. judgments or arbitration awards.

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viii. A certified reinsurer must agree to meet applicable information filing requirements substantially similar to those provided under Section 8B(7) of Model #786, both with respect to an initial application for certification and on an ongoing basis?

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ix. Changes in rating or revocation of certification of a certified reinsurer are applied by the commissioner in a manner substantially similar to the provisions of Section ~~242J~~ of Model #785 and Section 8B(8) of Model #786?

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x. A certified reinsurer must file audited financial statements, regulatory filings and actuarial opinion (as filed with the certified reinsurer's supervisor, with a translation into English) consistent with the requirements set forth in Section 8B(4)(h) and Section 8B(7)(d) of Model #786? Upon the initial application for certification, the commissioner will consider audited financial statements for the last two (2) years filed with its non-U.S. jurisdiction supervisor?

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

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i. In determining whether the domiciliary jurisdiction of a non-U.S. assuming insurer is eligible to be recognized as a qualified jurisdiction, the commissioner evaluates the reinsurance supervisory system of the non-U.S. jurisdiction, both initially and on an ongoing basis, under criteria substantially similar to those provided under Section 8C(2) of the model regulation?

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ii. The commissioner shall consider the list of qualified jurisdictions published by the NAIC in determining qualified jurisdictions? If the commissioner approves a jurisdiction as qualified that does not appear on the NAIC list of qualified jurisdictions, the commissioner must provide thoroughly documented justification with respect to criteria substantially similar to that provided under Section 8C(2) of Model #786.

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iii. U.S. jurisdictions that meet the requirements for accreditation under the NAIC financial standards and accreditation program are recognized as qualified jurisdictions?

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cc. A state's laws and regulations shall allow a commissioner to defer to the certification and rating of a certified reinsurer issued by another NAIC accredited jurisdiction. Recognition of certification is made in accordance with provisions substantially similar to Section 8D of Model #786?

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dd. Reinsurance contracts entered into or renewed with a certified reinsurer must include a proper funding clause, which requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer for reinsurance ceded to the certified reinsurer?

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**Reciprocal Jurisdictions**

ee. A state's laws and regulations shall allow credit for reinsurance ceded to an assuming insurer that has its head office or is domiciled in, and is licensed in, a Reciprocal Jurisdiction. Its laws and regulations shall contain provisions that are substantially similar to those contained in Section 2F of Model #785 and Section 9 of Model #786. Its laws and regulations must provide that a Reciprocal Jurisdiction is a jurisdiction that meets one of the following:

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i. A non-U.S. jurisdiction that is subject to an in-force covered agreement meeting the requirements of Section 2F(1)(a)(i) of Model #785 and Section 9B(1) of Model #786?

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ii. A U.S. jurisdiction that meets the requirements for accreditation under the NAIC Financial Standards and Accreditation Program pursuant to Section 2F(1)(a)(ii) of Model #785 and Section 9B(2) of Model #786?

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iii. A Qualified Jurisdiction that meets all of the requirements of Section 2F(1)(a)(iii) of Model #785 and Section 9B(3) of Model #786?

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ff. Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is licensed to transact reinsurance by, and has its head office or is domiciled in, a Reciprocal Jurisdiction, and which meets each of the conditions set forth in Section 2F(1)(b) – (g) of Model #785 and Section 9C of Model #786:

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i. The assuming insurer must have and maintain on an ongoing basis minimum capital and surplus, or its equivalent, calculated on at least an annual basis as of the preceding December 31 or at the annual date otherwise statutorily reported to the Reciprocal Jurisdiction of no less than \$250,000,000 similar to Section 2F(1)(b) of Model #785 and Section 9C(2) of Model #786? This minimum capital and surplus requirement may also be satisfied by an association including incorporated and individual unincorporated underwriters having minimum capital and surplus equivalents (net of liabilities) or own funds of at least \$250,000,000 and a central fund containing a balance of at least \$250,000,000.

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ii. The assuming insurer must have and maintain on an ongoing basis a minimum solvency or capital ratio, as applicable, as set forth in Section 2F(1)(c) of Model #785 and Section 9C(3) of Model #786?

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iii. The assuming insurer must submit a properly executed Form RJ-1 consistent with Section 2F(1)(d) of Model #785 and Section 9C(4) of Model #786:

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- The assuming insurer must agree to provide prompt written notice and explanation to the commissioner if it falls below the minimum requirements set forth in this subsection, or if any regulatory action is taken against it for serious noncompliance with applicable law pursuant to Section 2F(1)(d)(i) of Model #785 and Section 9C(4)(a) of Model #786?

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- The assuming insurer must consent in writing to the jurisdiction of the courts of this state and to the appointment of the commissioner as agent for service of process pursuant to Section 2F(1)(d)(ii) of Model #785 and Section 9C(4)(b) of Model #786? The commissioner may also require that such consent be provided and included in each reinsurance agreement under the commissioner's jurisdiction.

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- The assuming insurer must consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer, that have been declared enforceable in the territory where the judgment was obtained pursuant to Section 2F(1)(d)(iii) of Model #785 and Section 9C(4)(c) of Model #786?

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- Each reinsurance agreement must include a provision requiring the assuming insurer to provide security in an amount equal to one hundred percent (100%) of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by its legal successor on behalf of its estate, if applicable pursuant to Section 2F(1)(d)(iv) of Model #785 and Section 9C(4)(d) of Model #786?

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- The assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement, which involves this state's ceding insurers, and agrees to notify the ceding insurer and the commissioner and to provide one hundred percent (100%) security to the ceding insurer consistent with the terms of the scheme, should the assuming insurer enter into such a solvent scheme of arrangement pursuant to Section 2F(1)(d)(v) of Model #785 and Section 9C(4)(e) of Model #786?

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- The assuming insurer must agree in writing to meet the applicable information filing requirements pursuant to Section 9C(4)(f) of Model #786?

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iv. The assuming insurer or its legal successor must provide, if requested by the commissioner, on behalf of itself and any legal predecessors, the documentation to the commissioner as outlined in Section 2F(1)(e) of Model #785 and Section 9C(5) of Model #786:

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- For the two years preceding entry into the reinsurance agreement and on an annual basis thereafter, the assuming insurer's annual audited financial statements, in accordance with the applicable law of the jurisdiction of its head office or domiciliary jurisdiction, as applicable, including the external audit report pursuant to Section 9C(5)(a) of Model #786?

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- For the two years preceding entry into the reinsurance agreement, the solvency and financial condition report or actuarial opinion, if filed with the assuming insurer's supervisor pursuant to Section 9C(5)(b) of Model #786?

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- Prior to entry into the reinsurance agreement and not more than semi-annually thereafter, an updated list of all disputed and overdue reinsurance claims outstanding for 90 days or more, regarding reinsurance assumed from ceding insurers domiciled in the United States pursuant to Section 9C(5)(c) of Model #786?

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- Prior to entry into the reinsurance agreement and not more than semi-annually thereafter, information regarding the assuming insurer's assumed reinsurance by ceding insurer, ceded reinsurance by the assuming insurer, and reinsurance recoverable on paid and unpaid losses by the assuming insurer pursuant to Section 9C(5)(d) of Model #786?
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v. The assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements consistent with Section 2F(1)(f) of Model #785 and Section 9C(6) of Model #786?

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vi. The assuming insurer's supervisory authority must confirm to the commissioner on an annual basis that the assuming insurer complies with the minimum capital and surplus requirements and the minimum solvency or capital ratio requirements as required under Section 2F(1)(g) of Model #785 and Section 9C(7) of Model #786?

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gg. The commissioner is required to timely create and publish a list of Reciprocal Jurisdictions similar to Section 2F(2) of Model #786 and Section 9D of Model #786?

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i. If the commissioner approves a jurisdiction that does not appear on the NAIC list of Reciprocal Jurisdictions, the commissioner must provide thoroughly documented justification in accordance with criteria published through the NAIC Committee Process pursuant to Section 2F(2)(a) of Model #785 and Section 9D(1) of Model #786?

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ii. The commissioner may remove a jurisdiction from the list of Reciprocal Jurisdictions upon a determination that the jurisdiction no longer meets one or more of the requirements of a Reciprocal Jurisdiction pursuant to Section 2F(2)(b) of Model #785 and Section 9D(2) of Model #786, except that the commissioner shall not remove from the list a Reciprocal Jurisdiction as defined under Section 9B(1) and (2) of Model #786?

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hh. The commissioner shall timely create and publish a list of assuming insurers to which cessions shall be granted credit consistent with Section 2F(3) of Model #785 and Section 9E of Model #786? Such assuming insurer must submit a properly executed Form RJ-1 and additional information as the commissioner may require.

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i. If an NAIC accredited jurisdiction has determined that the conditions set forth in Section 2F of Model #785 and Section 9 of Model #786 have been met, the commissioner has the discretion to defer to that jurisdiction's determination and add such assuming insurer to the list of assuming insurers to which cessions shall be granted credit in accordance pursuant to Section 2F(3) of Model #785 and Section 9E(1) of Model #786? The commissioner may accept financial documentation filed with another NAIC accredited jurisdiction or with the NAIC with respect to such reinsurer.

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ii. When requesting that the commissioner defer to another NAIC accredited jurisdiction's determination, an assuming insurer must submit a properly executed Form RJ-1 and additional information as the commissioner may require pursuant to Section 9E(2) of Model #786?

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ii. If the commissioner determines that an assuming insurer no longer meets one or more of the requirements set forth in Section 2F of Model #786 and Section 9 of Model #786, the commissioner may revoke or suspend the eligibility of the assuming insurer consistent with Section 2F(4) of Model #785 and Section 9F of Model #786?

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i. While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer's obligations under the contract are otherwise secured pursuant to Section 2F(4)(a) of Model #785 and Section 9F(1) of Model #786?

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ii. If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into prior to the date of revocation, except to the extent that the assuming insurer's obligations under the contract are otherwise secured in a form acceptable to the commissioner pursuant to Section 2F(4)(b) of Model #785 and Section 9F(2) of Model #786?

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iii. Before denying statement credit or imposing a requirement to post security or adopting any similar requirement that will have substantially the same regulatory impact as security, the commissioner shall follow the process set forth in Section 9G of Model #786?

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jj. If subject to a legal process of rehabilitation, liquidation or conservation, as applicable, the ceding insurer, or its representative, may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring that the assuming insurer post security for all outstanding liabilities in accordance with Section 2F(5) of Model #785 and Section 9H of Model #786?

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kk. Nothing shall limit or in any way alter the capacity of parties to a reinsurance agreement to agree on requirements for security or other terms in that reinsurance agreement, except as expressly prohibited by other applicable law or regulation similar to Section 2F(6) of Model #785?

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II. Credit may be taken only for reinsurance agreements entered into, amended, or renewed on or after the effective date of the statute, and only with respect to losses incurred and reserves reported on or after the later of (i) the date on which the assuming insurer has met all eligibility requirements, and (ii) the effective date of the new reinsurance agreement, amendment, or renewal consistent with the provisions of Section 2F(7) of Model #785?

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