

# ENROLLMENT(S)



COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 10-36

"Law on Credit for Reinsurance Act of  
1993".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 10-128 on first and second readings, June 29, 1993, and July 13, 1993, respectively. Following the signature of the Mayor on July 29, 1993, this legislation was assigned Act No. 10-69, published in the August 13, 1993, edition of the D.C. Register, (Vol. 40 page 5812) and transmitted to Congress on August 3, 1993 for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 10-36, effective October 15, 1993.



DAVID A. CLARKE  
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

August 3,4,5,6

September 7,8,9,10,13,14,15,16,17,20,21,22,23,24,27,28,29,30

October 1,4,5,6,7,12,13,14

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 29, 1993

To establish when credit shall be allowed when reinsurance is ceded to an assuming insurer which is licensed to transact insurance or reinsurance in the District of Columbia.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Law on Credit for Reinsurance Act of 1993".

Sec. 2. Credit allowed a domestic ceding insurer.

New Section  
35-3301

(a) Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of paragraph (2), (3), (4), or (5) of this subsection. If meeting the requirements of paragraph (3) or (4) of this subsection, the requirements of paragraph (6) of this subsection must also be met.

(1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is licensed to transact insurance or reinsurance in the District of Columbia.

(2) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is accredited as a reinsurer in the District of Columbia. An accredited reinsurer is one which:

(A) Files evidence of its submission to the District of Columbia jurisdiction with the Superintendent;

(B) Submits to the District of Columbia authority to examine its books and records;

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

(D) Files annually with the Superintendent a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement, and:

(i) Maintains a surplus as regards policyholders in an amount which is not less than \$20,000,000 and whose accreditation has not been denied by the Superintendent within 90 days of its submission; or

(ii) Maintains a surplus as regards policyholders in an amount less than \$20,000,000 and whose accreditation has been approved by the Superintendent.

(3)(A) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is domiciled and licensed in, or, in the case of a United States branch of an alien assuming insurer, is entered through, a state which employs standards regarding credit for reinsurance substantially similar to those applicable under this statute, and the assuming insurer or United States branch of an alien assuming insurer:

(i) Maintains a surplus as regards policyholders in an amount not less than \$20,000,000;

(ii) Submits to the authority of the District of Columbia to examine its books and records; and

(iii) Complies with the requirements of paragraph (6) of this subsection.

(B) The requirement of paragraph (3)(A) of this subsection does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

(4)(A) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which maintains a trust fund in a qualified United States financial institution, as defined in section 4(b), for the payment of the valid claims of its United States policyholders and ceding insurers, their assignees and successors in interest. The assuming insurer shall report annually to the Superintendent information substantially the same as that required to be reported on the NAIC Annual Statement form by licensed insurers to enable the Superintendent to determine the sufficiency of the trust fund. In the case of a single assuming insurer, the trust shall consist of a trustee account representing the assuming insurer's liabilities attributable to business written in the United States, and, in addition, the assuming insurer shall maintain a trustee surplus of not less than \$20,000,000. In the case of a group of underwriters, which includes individuals, the trust shall consist of a trustee account representing the group's liabilities attributable to business written in the United States and, in addition, the group shall maintain a trustee surplus of which \$100,000,000 shall be held jointly for the benefit of United States ceding insurers of any member of the group. The group shall make available to the Superintendent an annual certification of the solvency of each underwriter by the group's domiciliary regulator and its independent public accountants.

(B) In the case of a group of incorporated insurers under common administration which complies with the filing requirements contained in subparagraph (A) of this paragraph, has continuously transacted an insurance business outside the United States for at least 3 years immediately prior to making application for accreditation, submits to the District of Columbia authority to examine its books and records and bears the expense of the examination, and has aggregate policyholders' surplus of \$10,000,000,000, the trust shall be in an amount equal to the group's several liabilities attributable to business ceded by United States ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of the group. The group shall maintain a joint trustee surplus of which \$100,000,000 shall be held jointly and exclusively for the benefit of United States ceding insurers of any member of the group as additional security for any liabilities, and each member of the group shall make available to the Superintendent an

annual certification of the member's solvency by the member's domiciliary regulator and its independent public accountant.

(C) The trust shall be established in a form approved by the Superintendent of Insurance. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers, their assignees, and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the Superintendent. This trust shall remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust.

(D) No later than February 28th of each year the trustees of the trust shall report to the Superintendent in writing setting forth the balance of the trust and listing the trust's investments at the preceding year end, and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31st.

(E) Credit shall not be allowed under this paragraph unless the assuming insurer complies with the requirements of paragraph (6) of this subsection.

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

(6) If the assuming insurer is not licensed or accredited to transact insurance or reinsurance of the District of Columbia, the credit permitted by paragraphs (3) and (4) of this subsection shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

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

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

(b) No credit shall be allowed to a domestic ceding insurer if the assuming insurer's accreditation has been revoked by the Superintendent after notice and hearing.

(c) This provision is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if such an obligation is created in the agreement.

Sec. 3. Reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer.

New Section  
35-3302

A reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of section 2 shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer, and such a reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations thereunder, if the security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer, or, in the case of a trust, held in a qualified United States financial institution. This security may be in the form of:

- (1) Cash;
- (2) Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners and qualifying as admitted assets;
- (3) Irrevocable, unconditional letters of credit issued or confirmed by a qualified United States institution no later than December 31st in respect of the year for which filing is being made, and in the possession of the ceding company on or before the filing date of its annual statement. Letters of credit meeting applicable standards of insurer acceptability as of the dates of their issuance or confirmation shall, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuers acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever occurs first; or
- (4) Any other investment which the Superintendent concludes is sufficiently secure and liquid to provide adequate security.

Sec. 4. Qualified United States financial institutions.

(a) For purposes of this act, the term "qualified United States financial institution" means an institution that:

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

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

(3) Has been determined by either the Superintendent or the Securities Valuation Office of the National Association of Insurance Commissioners to meet the standards of financial condition and standing considered necessary and appropriate to regulate the quality of financial institutions issuing letters.

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

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

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

New Section  
35-3303

Sec. 5. Rules.

The Mayor shall, pursuant to title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code §§ 1-1501 through 1-1510), issue rules to implement the provisions of this act.

Note,  
New Section  
35-3301

Sec. 6. Repealer.

Section 37 of chapter III of the Life Insurance Act, approved June 19, 1934 (48 Stat. 1154; D.C. Code § 35-635), is repealed.

Section  
35-635

Sec. 7. Applicability.

Sections 2 through 5 shall apply to all cession after the effective date of this act under reinsurance agreements which have had an inception, anniversary, or renewal date not less than 6 months after the effective date of this act.

Note,  
New Section  
35-3301

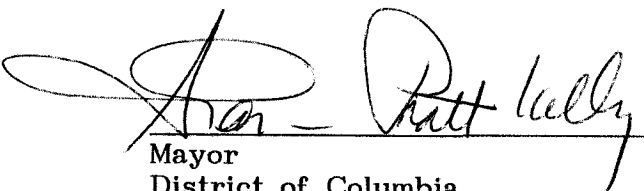
Sec. 8. Effective date.

This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in either the District of Columbia Register, the District of Columbia Statutes-at-Large, or the District of Columbia Municipal Regulations.



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Acting Chairman  
Council of the District of Columbia



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Mayor  
District of Columbia

APPROVED: July 29, 1993



COUNCIL OF THE DISTRICT OF COLUMBIA

COUNCIL PERIOD TEN

RECORD OF OFFICIAL COUNCIL VOTE

DOCKET NO: B10-128

Item on Consent Calendar

ACTION & DATE: Adopted First Reading, 6-29-93

VOICE VOTE: Approved

Recorded vote on request

Absent: Barry and Chavous

ROLL CALL VOTE: -- RESULT ( / / )

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. RAY					EVANS					SMITH, JR.				
BARRY					JARVIS					THOMAS, SR.				
BRAZIL					LIGHTFOOT									
CHAVOUS					MASON									
CROPP					NATHANSON									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

*Reggie Jones*  
Secretary to the Council

*July 15, 1993*  
Date

Item on Consent Calendar

ACTION & DATE: Adopted Final Reading, 7-13-93

VOICE VOTE: Approved

Recorded vote on request

Absent: Barry and Chavous

ROLL CALL VOTE: -- RESULT ( / / )

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. RAY					EVANS					SMITH, JR.				
BARRY					JARVIS					THOMAS, SR.				
BRAZIL					LIGHTFOOT									
CHAVOUS					MASON									
CROPP					NATHANSON									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

*Reggie Jones*  
Secretary to the Council

*July 15, 1993*  
Date

Item on Consent Calendar

ACTION & DATE:

VOICE VOTE:

Recorded vote on request

Absent:

ROLL CALL VOTE: -- RESULT ( / / )

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. RAY					EVANS					SMITH, JR.				
BARRY					JARVIS					THOMAS, SR.				
BRAZIL					LIGHTFOOT									
CHAVOUS					MASON									
CROPP					NATHANSON									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Secretary to the Council

Date