

STATE OF MONTANA  
MONICA J. LINDEEN  
State Auditor  
Commissioner of Insurance & Securities  
840 Helena Avenue  
Helena, MT 59601

APPLICATION FOR ACCREDITED REINSURER STATUS

Name of Applicant \_\_\_\_\_ (NAIC Number)

Home Office Address \_\_\_\_\_  
(Street) (City) (State) (Zip)

Mailing Address \_\_\_\_\_  
(Street or PO Box) (City) (State) (Zip)

Phone Number \_\_\_\_\_ Facsimile Number \_\_\_\_\_ Date Incorporated \_\_\_\_\_

Contact Person and Phone Number \_\_\_\_\_

State of Entry (If a U.S. Branch Office) \_\_\_\_\_

Principal U.S. Office Address \_\_\_\_\_

PLEASE INCLUDE THE FOLLOWING DOCUMENTS WITH THE APPLICATION:

- ( ) Annual Statement as of December 31 preceding year.
- ( ) Report of last Examination.
- ( ) Copy of Audited Financial Statement as of December 31 preceding year.
- ( ) Certificate of Authorization, Domiciliary State.
- ( ) Copy of Appointment and Authority of U.S. Manager (Alien Insurer).
- ( ) Copy of Certificate of Assuming Insurer (Form AR-1).
- ( ) Submit a schedule listing the states in which you currently hold the status of accredited reinsurer.
- ( ) Copy of Trust Instrument (If applicable).
- ( ) Certification from Trustee of Market Value of Assets (If applicable).
- ( ) Application Fee (**Retaliatory basis only**) Check No. \_\_\_\_\_ in the amount of \$ \_\_\_\_\_

DATED \_\_\_\_\_

\_\_\_\_\_  
Name and Title of Officer

\_\_\_\_\_  
Signature of Officer

Form AR-1  
Certificate of Assuming Insurer

I, \_\_\_\_\_  
(Name of officer) (Title of officer)

of \_\_\_\_\_,

the assuming insurer under a reinsurance agreement(s) with one or more insurers domiciled in Montana, hereby certify that

\_\_\_\_\_  
(Name of assuming insurer)

1. Submits to the jurisdiction of any court of competent jurisdiction in Montana for the adjudication of any issues arising out of the reinsurance agreement(s), agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute or should be understood to constitute a waiver of Assuming Insurer's rights to commence an action in any court of competent jurisdiction of the United States, to remove an action to a United States court, or to seek a transfer of a case to another court as permitted by the laws of the United States or any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreements(s) to arbitrate their disputes if such an obligation is created in the agreements(s).
2. Designates the Insurance Commissioner of Montana as its lawful attorney upon whom may be served any lawful process in any action, suite or proceeding arising out of the reinsurance agreement(s) instituted by or behalf of the ceding insurer.
3. Submits to the authority of the Insurance Commissioner of Montana to examine its books and records and agrees to bear the expenses of such examination.
4. Submits with this form a current list of insurers domiciled in Montana reinsured by Assuming Insurer and undertakes to submit additions to or deletions from the list to the Insurance Commissioner at least once per calendar quarter.

Dated: \_\_\_\_\_  
(Name of assuming insurer)

By: \_\_\_\_\_  
(Name of officer)

\_\_\_\_\_  
(Title of officer)

\_\_\_\_\_  
Name and address of person to whom service of process should be forwarded.

**33-2-1216. Credit allowed domestic ceding insurer.** (1) Credit for reinsurance is allowed to 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 subsection (2), (3), (4), (5), or (6). If the requirements of subsection (4) or (5) are met, the requirements of subsection (7) must also be met.

(2) Credit must be allowed when the reinsurance is ceded to an assuming insurer that is licensed to transact insurance or reinsurance in this state.

(3) Credit must be allowed when the reinsurance is ceded to an assuming insurer that is accredited as a reinsurer in this state. Credit may not be allowed a domestic ceding insurer if the assuming insurer's accreditation has been revoked by the commissioner after notice and hearing. An accredited reinsurer is one that:

(a) files with the commissioner evidence of its submission to this state's jurisdiction;

(b) submits to this state's authority to examine its books and records;

(c) is licensed to transact insurance or reinsurance in at 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 at least one state;

(d) files annually with the commissioner 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 either:

(i) maintains a surplus with regard to policyholders in an amount that is not less than \$20 million and whose accreditation has not been denied by the commissioner within 90 days of its submission; or

(ii) maintains a surplus with regard to policyholders in an amount less than \$20 million and whose accreditation has been approved by the commissioner.

(4) (a) Subject to subsection (4)(b), credit must be allowed when:

(i) the reinsurance is ceded to an assuming insurer that is domiciled and licensed in or, in the case of a United States branch of an alien assuming insurer, is entered through a state that employs standards regarding credit for reinsurance substantially similar to those applicable under this statute; and

(ii) the assuming insurer or the United States branch of an alien assuming insurer:

(A) maintains a surplus with regard to policyholders in an amount not less than \$20 million; and

(B) submits to the authority of this state to examine its books and records.

(b) The requirement of subsection (4)(a)(i) does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

(5) (a) Credit must be allowed when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution for the payment of the valid claims of its United States policyholders and ceding insurers and their assigns and successors in interest. The assuming insurer shall report annually to the commissioner information substantially the same as that required to be reported on the NAIC annual statement form by licensed insurers to enable the commissioner to determine the sufficiency of the trust fund.

(b) (i) In the case of a single assuming insurer, the trust must 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 surplus with the trustee of not less than \$20 million.

(ii) In the case of a group, including incorporated and individual unincorporated underwriters, the trust must 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 surplus with the trustee of which \$100 million must be held jointly for the benefit of United States ceding insurers of any member of the group.

(iii) The incorporated members of the group, as group members, may not be engaged in a business other than underwriting as members of the group and are subject to the same level of solvency regulation and control by the insurance regulator as the unincorporated members. The group shall make available to the commissioner an annual certification of the solvency of each underwriter by the insurance regulator and the independent public accountants in the jurisdiction where the underwriter is domiciled.

(iv) In the case of a group of incorporated insurers under common administration:

(A) the provisions of subsection (5)(b)(iv)(B) apply to the group that:

(I) complies with the reporting requirements contained in subsection (5)(a);

(II) has continuously transacted an insurance business outside the United States for at least 3 years immediately prior to making application for accreditation;

(III) submits to this state's authority to examine its books and records and bears the expense of the examination; and

(IV) has aggregate policyholders' surplus of \$10 billion;

(B) (I) the trust must 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;

(II) the group shall maintain a joint surplus with a trustee of which \$100 million is held jointly for the benefit of United States ceding insurers of any member of the group as additional security for any liabilities; and

(III) each member of the group shall make available to the commissioner an annual certification of the member's solvency by the insurance regulator and the independent public accountants in the jurisdiction where the underwriter is domiciled.

(c) The trust must be established in a form approved by the commissioner. The trust instrument must provide that contested claims are valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust must vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers and their assigns and successors in interest. The trust and the assuming insurer are subject to examination as determined by the commissioner. The trust described in this subsection (c) must 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 28 of each year, the trustees of the trust shall report to the commissioner in writing setting forth the balance of the trust and listing the trust's investments at the end of the preceding year. The trustees shall certify the date of termination of the trust, if planned, or certify that the trust may not expire prior to the following December 31.

(6) Credit must be allowed when the reinsurance is ceded to an assuming insurer that does not meet the requirements of subsection (2), (3), (4), or (5) but only with respect to the insurance of risks located in a jurisdiction in which the reinsurance is required by applicable law or regulation of that jurisdiction.

(7) (a) If the assuming insurer is not licensed or accredited to transact insurance or reinsurance in this state, the credit permitted by subsections (4) and (5) may not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(i) 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, will:

(A) submit to the jurisdiction of any court of competent jurisdiction in any state of the United States;

(B) comply with all requirements necessary to give the court jurisdiction; and

(C) abide by the final decision of the court or of any appellate court in the event of an appeal;

and  
(ii) to designate the commissioner or a designated attorney as its 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) Subsection (7)(a)(i) is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes if an obligation is created in the agreement.

**History: En. Sec. 28, Ch. 596, L. 1993; amd. Sec. 28, Ch. 379, L. 1995.**

**Administrative Rules:**

ARM 6.6.3801 through 6.6.3809 Credit for reinsurance.

ARM 6.6.3901 through 6.6.3907 Letters of credit used in reduction of liability for reinsurance ceded.

**33-2-1217. Reduction of liability for reinsurance ceded by domestic insurer to assuming insurer -- definition.** A reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of 33-2-1216 must be allowed in an amount not exceeding the liabilities carried by the ceding insurer. The reduction must be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer:

(1) under a reinsurance contract with the assuming insurer as security for the payment of obligations under the contract if the security is held in the United States subject to withdrawal solely by and under the exclusive control of the ceding insurer; or

(2) in the case of a trust, in a qualified United States financial institution. This security may be in the form of:

(a) cash;

(b) securities listed by the securities valuation office of the NAIC and qualifying as admitted assets;

(c) clean, irrevocable, unconditional letters of credit that are issued or confirmed by a qualified United States financial institution no later than December 31 of the year for which filing is being made and that are in the possession of the ceding company on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation must, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever occurs first.

(d) any other form of security acceptable to the commissioner.

(3) For the purposes of subsection (2)(c), a "qualified United States financial institution" means an institution that:

(a) 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 of its states;

(b) is regulated, supervised, and examined by United States federal or state authorities with regulatory authority over banks and trust companies; and

(c) has been determined by either the commissioner or the securities valuation office of the national association of insurance commissioners to meet the standards of financial condition and standing that are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.

(4) For the purposes of this part, except for subsection (2)(c), "qualified United States financial institution" means, with respect to institutions eligible to act as a fiduciary of a trust, an institution that:

(a) is organized or, in the case of a United States branch or agency office of a foreign banking corporation, licensed under the laws of the United States or any of its states and that has been granted authority to operate with fiduciary powers; and

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

(5) The commissioner may adopt rules implementing the provisions of 33-2-307, 33-2-708, and chapter 12.

**History: En. Sec. 29, Ch. 596, L. 1993; amd. Sec. 2, Ch. 379, L. 1995; amd. Sec. 43, Ch. 304, L. 1999.**

**33-2-1218. Reinsurance agreements affected.** Sections 33-2-1216 and 33-2-1217 apply to all cessions after October 1, 1993, under reinsurance agreements that have had an inception, anniversary, or renewal date on or after April 1, 1993.

**History: En. Sec. 30, Ch. 596, L. 1993; amd. Sec. 30, Ch. 379, L. 1995.**