

10783

I N A S S E M B L Y

April 21, 2010

Introduced by M. of A. MORELLE, BING, KELLNER, CYMBROWITZ, PEOPLES-STOKES, SCHROEDER, SPANO, DESTITO, BARCLAY -- Multi-Sponsored by -- M. of A. BARRON, BENJAMIN, BOYLAND, CAHILL, CALHOUN, CASTRO, DelMONTE, DenDEKKER, ENGLEBRIGHT, FIELDS, GALEF, GUNTHER, JAFFEE, JOHN, KOON, LANCMAN, LIFTON, MAGEE, MAYERSOHN, McENENY, MILLMAN, PHEFFER, REILLY, ROBINSON, SCHIMMINGER, SKARTADOS, STIRPE -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to credit default insurance corporations, and to repeal certain provisions of the insurance law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Article 69 of the insurance law is REPEALED and a new arti-
2 cle 69 is added to read as follows:

3 ARTICLE 69

4 CREDIT DEFAULT INSURANCE CORPORATIONS

5 SECTION 6901. DEFINITIONS.

6 6902. ORGANIZATION; FINANCIAL REQUIREMENTS.

7 6903. CONTINGENCY, LOSS AND UNEARNED PREMIUM RESERVES; COLLAT-
8 ERAL.

9 6904. LIMITATIONS.

10 6905. POLICY FORMS AND RATES.

11 6906. REINSURANCE.

12 6907. APPLICABILITY OF OTHER LAWS.

13 6908. RELATIONSHIP TO SECURITY FUND.

14 6909. PENALTIES.

15 6910. TRANSITION PROVISION.

16 S 6901. DEFINITIONS: (A) "CREDIT DEFAULT INSURANCE" MEANS:

17 (1) A SURETY BOND, OR OTHER CONTRACT, AND ANY GUARANTEE WHICH IS PAYA-
18 BLE UPON OCCURRENCE OF FINANCIAL LOSS, AS A RESULT OF THE FAILURE OF ANY
19 OBLIGOR ON OR ISSUER OF ANY DEBT INSTRUMENT OR OTHER MONETARY OBLIGATION
20 TO PAY WHEN DUE TO BE PAID BY THE OBLIGOR OR SCHEDULED AT THE TIME
21 INSURED TO BE RECEIVED BY THE HOLDER OF THE OBLIGATION, PRINCIPAL,
22 INTEREST, PREMIUM, DIVIDEND OR PURCHASE PRICE OF OR ON, OR OTHER AMOUNTS

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD15945-03-0

1 DUE OR PAYABLE WITH RESPECT TO, SUCH INSTRUMENT OR OBLIGATION, WHEN SUCH
2 FAILURE IS THE RESULT OF A FINANCIAL DEFAULT OR INSOLVENCY, OR OTHER
3 CREDIT EVENT, OR, PROVIDED THAT SUCH PAYMENT SOURCE IS INVESTMENT GRADE,
4 ANY OTHER FAILURE TO MAKE PAYMENT, REGARDLESS OF WHETHER SUCH OBLIGATION
5 IS INCURRED DIRECTLY OR AS GUARANTOR BY OR ON BEHALF OF ANOTHER OBLIGOR
6 THAT HAS ALSO DEFAULTED;

7 (2) CREDIT DEFAULT INSURANCE INCLUDES OTHER EVENTS WHICH THE SUPER-
8 INTENDENT DETERMINES ARE SUBSTANTIALLY SIMILAR TO ANY OF THE EVENTS
9 DESCRIBED IN PARAGRAPH ONE OF THIS SUBSECTION.

10 (3) NOTWITHSTANDING PARAGRAPH ONE OF THIS SUBSECTION, "CREDIT DEFAULT
11 INSURANCE" SHALL NOT INCLUDE:

12 (A) INSURANCE OF ANY LOSS RESULTING FROM ANY EVENT DESCRIBED IN PARA-
13 GRAPH ONE OF THIS SUBSECTION IF THE LOSS IS PAYABLE ONLY UPON THE OCCUR-
14 RENCE OF ANY OF THE FOLLOWING, AS SPECIFIED IN A SURETY BOND, INSURANCE
15 POLICY OR INDEMNITY CONTRACT:

16 (I) A FORTUITOUS PHYSICAL EVENT;

17 (II) FAILURE OF OR DEFICIENCY IN THE OPERATION OF EQUIPMENT; OR

18 (III) AN INABILITY TO EXTRACT OR RECOVER A NATURAL RESOURCE;

19 (B) FIDELITY AND SURETY INSURANCE AS DEFINED IN PARAGRAPH SIXTEEN OF
20 SUBSECTION (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THIS
21 CHAPTER;

22 (C) CREDIT INSURANCE AS DEFINED IN PARAGRAPH SEVENTEEN OF SUBSECTION
23 (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THIS CHAPTER;

24 (D) CREDIT UNEMPLOYMENT INSURANCE AS DEFINED IN PARAGRAPH TWENTY-FOUR
25 OF SUBSECTION (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THIS
26 CHAPTER;

27 (E) RESIDUAL VALUE INSURANCE AS DEFINED IN PARAGRAPH TWENTY-TWO OF
28 SUBSECTION (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THIS
29 CHAPTER;

30 (F) MORTGAGE GUARANTY INSURANCE AS DEFINED IN PARAGRAPH TWENTY-THREE
31 OF SUBSECTION (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THIS
32 CHAPTER AND AS PERMITTED TO BE WRITTEN BY A MORTGAGE GUARANTY INSURER
33 UNDER ARTICLE SIXTY-FIVE OF THIS CHAPTER;

34 (G) GUARANTEED INVESTMENT CONTRACTS ISSUED BY LIFE INSURANCE COMPANIES
35 WHICH PROVIDE THAT THE LIFE INSURER ITSELF WILL MAKE SPECIFIED PAYMENTS
36 IN EXCHANGE FOR SPECIFIC PREMIUMS OR CONTRIBUTIONS;

37 (H) INDEMNITY CONTRACTS OR SIMILAR GUARANTIES, TO THE EXTENT THAT THEY
38 ARE NOT OTHERWISE LIMITED OR PROSCRIBED BY THIS CHAPTER:

39 (I) IN WHICH A LIFE INSURER OR AN INSURER SUBJECT TO ARTICLE
40 FORTY-THREE OF THIS CHAPTER GUARANTIES ITS OBLIGATIONS OR INDEBTEDNESS
41 OR THE OBLIGATIONS OR INDEBTEDNESS OF A SUBSIDIARY (AS DEFINED IN PARA-
42 GRAPH FORTY OF SUBSECTION (A) OF SECTION ONE HUNDRED SEVEN OF THIS CHAP-
43 TER), OTHER THAN A FINANCIAL GUARANTY INSURANCE CORPORATION, PROVIDED
44 THAT:

45 (I) TO THE EXTENT THAT ANY SUCH OBLIGATIONS OR INDEBTEDNESS ARE BACKED
46 BY SPECIFIC ASSETS, SUCH ASSETS MUST AT ALL TIMES BE OWNED BY THE INSUR-
47 ER OR THE SUBSIDIARY; AND

48 (II) IN THE CASE OF THE GUARANTY OF THE OBLIGATIONS OR INDEBTEDNESS OF
49 THE SUBSIDIARY THAT ARE NOT BACKED BY SPECIFIC ASSETS OF SUCH INSURER,
50 SUCH GUARANTY TERMINATES ONCE THE SUBSIDIARY CEASES TO BE A SUBSIDIARY;
51 OR

52 (II) IN WHICH A LIFE INSURER GUARANTIES OBLIGATIONS OR INDEBTEDNESS
53 (INCLUDING THE OBLIGATION TO SUBSTITUTE ASSETS WHERE APPROPRIATE) WITH
54 RESPECT TO SPECIFIC ASSETS ACQUIRED BY SUCH LIFE INSURER IN THE COURSE
55 OF ITS NORMAL INVESTMENT ACTIVITIES AND NOT FOR THE PURPOSE OF RESALE
56 WITH CREDIT ENHANCEMENT, OR GUARANTIES OBLIGATIONS OR INDEBTEDNESS

1 ACQUIRED BY ITS SUBSIDIARY, PROVIDED THAT THE ASSETS ACQUIRED PURSUANT
2 TO THIS ITEM HAVE BEEN:

3 (I) ACQUIRED BY A SPECIAL PURPOSE ENTITY, WHOSE SOLE PURPOSE IS TO
4 ACQUIRE SPECIFIC ASSETS OF SUCH LIFE INSURER OR ITS SUBSIDIARY AND ISSUE
5 SECURITIES OR PARTICIPATION CERTIFICATES BACKED BY SUCH ASSETS; OR

6 (II) SOLD TO AN INDEPENDENT THIRD PARTY; OR

7 (III) IN WHICH A LIFE INSURER GUARANTIES OBLIGATIONS OR INDEBTEDNESS
8 OF AN EMPLOYEE OR INSURANCE AGENT OF SUCH LIFE INSURER; OR

9 (I) GUARANTEES OF HIGHER EDUCATION LOANS, UNLESS WRITTEN BY A CREDIT
10 DEFAULT INSURANCE CORPORATION;

11 (J) GUARANTEES OF INSURANCE CONTRACTS, EXCEPT FOR:

12 (I) GUARANTEES AUTHORIZED PURSUANT TO SECTION ONE THOUSAND ONE HUNDRED
13 FOURTEEN OF THIS CHAPTER;

14 (II) CREDIT DEFAULT INSURANCE POLICIES INSURING GUARANTEED INVESTMENT
15 CONTRACTS ISSUED BY LIFE INSURERS, PROVIDED THAT:

16 (I) THE OBLIGATIONS UNDER SUCH CONTRACTS ARE NOT DEPENDENT ON THE
17 CONTINUANCE OF HUMAN LIFE;

18 (II) THE CREDIT DEFAULT INSURANCE POLICIES DO NOT GUARANTY DEATH BENE-
19 FITS PROVIDED BY SUCH CONTRACTS;

20 (III) THE OBLIGATIONS INSURED BY THE CREDIT DEFAULT INSURANCE POLICIES
21 ARE INVESTMENT GRADE BASED ON THE RATING OF THE LIFE INSURERS OR, IN THE
22 CASE OF SEPARATE ACCOUNT GUARANTEED INVESTMENT CONTRACTS, BASED ON THE
23 RATINGS OF SUCH SEPARATE ACCOUNTS;

24 (IV) THE CREDIT DEFAULT INSURANCE POLICIES SHALL NOT CONDITION OR
25 DELAY PAYMENT OF A CLAIM WITH RESPECT TO SUCH CONTRACTS UPON THE INSURED
26 OR BENEFICIARY MAKING A CLAIM ON THE CONTRACTS WITH ANY INSURANCE GUAR-
27 ANTY FUND UNDER THIS CHAPTER OR OF ANY OTHER JURISDICTION; AND

28 (V) THE CREDIT DEFAULT INSURANCE POLICIES PROVIDE THAT IF, PRIOR TO
29 PAYMENT BY THE INSURER UNDER THE CREDIT DEFAULT INSURANCE POLICIES, THE
30 GUARANTY FUND HAS PAID A CLAIM UNDER SUCH CONTRACTS FOR AN AMOUNT THAT,
31 WHEN ADDED TO THE AMOUNT PAYABLE UNDER THE CREDIT DEFAULT INSURANCE
32 POLICIES, WOULD EXCEED THE AMOUNT OWED UNDER SUCH CONTRACTS, THEN THE
33 CREDIT DEFAULT INSURER SHALL PAY THE PORTION OF THE AMOUNT PAYABLE IN
34 EXCESS OF THE CONTRACT AMOUNTS TO THE GUARANTY FUND INSTEAD OF TO THE
35 BENEFICIARY UNDER SUCH CONTRACTS; OR

36 (K) ANY OTHER FORM OF INSURANCE COVERING RISKS WHICH THE SUPERINTEN-
37 DENT DETERMINES TO BE SUBSTANTIALLY SIMILAR TO ANY OF THE FOREGOING.

38 (B) "CREDIT DEFAULT INSURANCE CORPORATION" OR "CORPORATION" MEANS AN
39 INSURER LICENSED TO TRANSACT THE BUSINESS OF CREDIT DEFAULT INSURANCE IN
40 THIS STATE.

41 (C) "AFFILIATE" MEANS A PERSON WHICH, DIRECTLY OR INDIRECTLY, OWNS AT
42 LEAST TEN PERCENT BUT LESS THAN FIFTY PERCENT OF THE CREDIT DEFAULT
43 INSURANCE CORPORATION OR WHICH IS AT LEAST TEN PERCENT BUT LESS THAN
44 FIFTY PERCENT, DIRECTLY OR INDIRECTLY, OWNED BY A CREDIT DEFAULT INSUR-
45 ANCE CORPORATION.

46 (D) "AGGREGATE NET LIABILITY" MEANS THE AGGREGATE AMOUNT OF INSURED
47 UNPAID PRINCIPAL, INTEREST AND OTHER MONETARY PAYMENTS, IF ANY, OF GUAR-
48 ANTIED OBLIGATIONS INSURED OR ASSUMED, LESS REINSURANCE CEDED AND LESS
49 COLLATERAL.

50 (E) "ASSET-BACKED SECURITIES" MEANS: SECURITIES OR OTHER FINANCIAL
51 OBLIGATIONS OF AN ISSUER PROVIDED THAT:

52 (1) THE ISSUER IS A SPECIAL PURPOSE CORPORATION, TRUST OR OTHER ENTI-
53 TY, OR (PROVIDED THAT THE SECURITIES OR OTHER FINANCIAL OBLIGATIONS
54 CONSTITUTE AN INSURABLE RISK) IS A BANK, TRUST COMPANY OR OTHER FINAN-
55 CIAL INSTITUTION, DEPOSITS IN WHICH ARE INSURED BY THE BANK INSURANCE
56 FUND OR THE SAVINGS INSURANCE FUND (OR ANY SUCCESSOR THERETO); AND

1 (2) A POOL OF ASSETS COMPRISED OF SECURITIES OR OTHER FINANCIAL OBLI-
 2 GATIONS EXPECTED TO GENERATE EITHER CASH FLOW OR CASH PROCEEDS BY THE
 3 TERMS OF THE SECURITIES OR OTHER FINANCIAL OBLIGATIONS, OR PURSUANT TO
 4 LEASES OR OTHER CONTRACTUAL RIGHTS, INCLUDING ANY EXPECTED EXTENSIONS OR
 5 RENEWALS THEREOF, OR THROUGH A SALE IN A PUBLIC OR PRIVATE MARKET FOR
 6 PROCEEDS SUFFICIENT TO PAY THE INSURED OBLIGATIONS:

7 (A) HAS BEEN CONVEYED, PLEDGED OR OTHERWISE TRANSFERRED TO OR IS
 8 OTHERWISE OWNED OR ACQUIRED BY THE ISSUER;

9 (B) SUCH POOL OF ASSETS BACKS THE SECURITIES OR OTHER FINANCIAL OBLI-
 10 GATIONS ISSUED; AND

11 (C) NO ASSET IN SUCH POOL, OTHER THAN AN ASSET DIRECTLY PAYABLE BY,
 12 GUARANTEED BY OR BACKED BY THE FULL FAITH AND CREDIT OF THE UNITED
 13 STATES GOVERNMENT OR THAT OTHERWISE QUALIFIES AS COLLATERAL UNDER PARA-
 14 GRAPH ONE OR TWO OF SUBSECTION (G) OF THIS SECTION, HAS A VALUE EXCEED-
 15 ING TWENTY PERCENT OF THE POOL'S AGGREGATE VALUE.

16 (F) "AVERAGE ANNUAL DEBT SERVICE" MEANS THE AMOUNT OF INSURED UNPAID
 17 PRINCIPAL AND INTEREST ON AN OBLIGATION, MULTIPLIED BY THE NUMBER OF
 18 SUCH INSURED OBLIGATIONS (ASSUMING EACH OBLIGATION REPRESENTS ONE THOU-
 19 SAND DOLLARS PAR VALUE), DIVIDED BY THE AMOUNT EQUAL TO THE AGGREGATE
 20 LIFE OF ALL SUCH OBLIGATIONS (ASSUMING EACH OBLIGATION REPRESENTS ONE
 21 THOUSAND DOLLARS PAR VALUE). THIS DEFINITION, EXPRESSED AS A FORMULA IN
 22 REGARD TO BONDS, IS AS FOLLOWS:

23 AVERAGE ANNUAL DEBT SERVICE= TOTAL DEBT SERVICE X NO. OF BONDS
 24 -----
 25 BOND YEARS

26 TOTAL DEBT SERVICE= INSURED UNPAID PRINCIPAL + INTEREST

27 NUMBER OF BONDS= TOTAL INSURED PRINCIPAL
 28 -----
 29 \$1,000

30 BOND YEARS= NUMBER OF BONDS X TERM IN YEARS

31 TERM IN YEARS = TERM TO MATURITY BASED ON SCHEDULED AMORTIZATION OR,
 32 IN THE ABSENCE OF A SCHEDULED AMORTIZATION IN THE CASE OF ASSET-BACKED
 33 SECURITIES OR OTHER OBLIGATIONS LACKING A SCHEDULED AMORTIZATION,
 34 EXPECTED AMORTIZATION, IN EACH CASE DETERMINED AS OF THE DATE OF ISSU-
 35 ANCE OF THE INSURANCE POLICY BASED UPON THE AMORTIZATION ASSUMPTIONS
 36 EMPLOYED IN PRICING THE INSURED OBLIGATIONS OR OTHERWISE USED BY THE
 37 INSURER TO DETERMINE AGGREGATE NET LIABILITY.

38 (G) "COLLATERAL" MEANS:

39 (1) CASH;

40 (2) THE CASH FLOW FROM SPECIFIC OBLIGATIONS WHICH ARE NOT CALLABLE AND
 41 SCHEDULED TO BE RECEIVED BASED ON EXPECTED PREPAYMENT SPEED ON OR PRIOR
 42 TO THE DATE OF SCHEDULED DEBT SERVICE (INCLUDING SCHEDULED REDEMPTIONS
 43 OR PREPAYMENTS) ON THE INSURED OBLIGATION PROVIDED THAT (A) SUCH SPECIF-
 44 IC OBLIGATIONS ARE DIRECTLY PAYABLE BY, GUARANTEED BY OR BACKED BY THE
 45 FULL FAITH AND CREDIT OF THE UNITED STATES GOVERNMENT, (B) IN THE CASE
 46 OF INSURED OBLIGATIONS DENOMINATED OR PAYABLE IN FOREIGN CURRENCY AS
 47 PERMITTED UNDER PARAGRAPH FOUR OF SUBSECTION (B) OF SECTION SIX THOUSAND
 48 NINE HUNDRED FOUR OF THIS ARTICLE, SUCH SPECIFIC OBLIGATIONS ARE DIRECT-
 49 LY PAYABLE BY, GUARANTEED BY OR BACKED BY THE FULL FAITH AND CREDIT OF
 50 SUCH FOREIGN GOVERNMENT OR THE CENTRAL BANK THEREOF, OR (C) SUCH SPECIF-
 51 IC OBLIGATIONS ARE INSURED BY THE SAME INSURER THAT INSURES THE OBLI-
 52 GATIONS BEING COLLATERALIZED, AND THE CASH FLOWS FROM SUCH SPECIFIC

1 OBLIGATIONS ARE SUFFICIENT TO COVER THE INSURED SCHEDULED PAYMENTS ON
2 THE OBLIGATIONS BEING COLLATERALIZED.

3 (3) THE MARKET VALUE OF INVESTMENT GRADE OBLIGATIONS, OTHER THAN OBLI-
4 GATIONS EVIDENCING AN INTEREST IN THE PROJECT OR PROJECTS FINANCED WITH
5 THE PROCEEDS OF THE INSURED OBLIGATIONS; OR

6 (4) THE FACE AMOUNT OF EACH LETTER OF CREDIT THAT:

7 (A) IS IRREVOCABLE;

8 (B) PROVIDES FOR PAYMENT UNDER THE LETTER OF CREDIT IN LIEU OF OR AS
9 REIMBURSEMENT TO THE INSURER FOR PAYMENT REQUIRED UNDER A CREDIT DEFAULT
10 INSURANCE POLICY;

11 (C) IS ISSUED, PRESENTABLE AND PAYABLE EITHER:

12 (I) AT AN OFFICE OF THE LETTER OF CREDIT ISSUER IN THE UNITED STATES;
13 OR

14 (II) AT AN OFFICE OF THE LETTER OF CREDIT ISSUER LOCATED IN THE JURIS-
15 DICTION IN WHICH THE TRUSTEE OR PAYING AGENT FOR THE INSURED OBLIGATION
16 IS LOCATED

17 (D) CONTAINS A STATEMENT THAT EITHER:

18 (I) IDENTIFIES THE INSURER AND ANY SUCCESSOR BY OPERATION OF LAW,
19 INCLUDING ANY LIQUIDATOR, REHABILITATOR, RECEIVER OR CONSERVATOR, AS THE
20 BENEFICIARY; OR

21 (II) IDENTIFIES THE TRUSTEE OR THE PAYING AGENT FOR THE INSURED OBLI-
22 GATION AS THE BENEFICIARY;

23 (E) CONTAINS A STATEMENT TO THE EFFECT THAT THE OBLIGATION OF THE
24 LETTER OF CREDIT ISSUER UNDER THE LETTER OF CREDIT IS AN INDIVIDUAL
25 OBLIGATION OF SUCH ISSUER AND IS IN NO WAY CONTINGENT UPON REIMBURSEMENT
26 WITH RESPECT THERETO;

27 (F) CONTAINS AN ISSUE DATE AND A DATE OF EXPIRATION;

28 (G) EITHER:

29 (I) HAS A TERM AT LEAST AS LONG AS THE SHORTER OF THE TERM OF THE
30 INSURED OBLIGATION OR THE TERM OF THE CREDIT DEFAULT INSURANCE POLICY;
31 OR

32 (II) PROVIDES THAT THE LETTER OF CREDIT SHALL NOT EXPIRE WITHOUT THIR-
33 TY DAYS PRIOR WRITTEN NOTICE TO THE BENEFICIARY AND ALLOWS FOR DRAWING
34 UNDER THE LETTER OF CREDIT IN THE EVENT THAT, PRIOR TO EXPIRATION, THE
35 LETTER OF CREDIT IS NOT RENEWED OR EXTENDED OR A SUBSTITUTE LETTER OF
36 CREDIT OR ALTERNATE COLLATERAL MEETING THE REQUIREMENTS OF THIS
37 SUBSECTION IS NOT PROVIDED;

38 (H) STATES THAT IT IS GOVERNED BY THE LAWS OF THE STATE OF NEW YORK OR
39 BY THE 1983 OR 1993 REVISION OF THE UNIFORM CUSTOMS AND PRACTICE FOR
40 DOCUMENTARY CREDITS OF THE INTERNATIONAL CHAMBER OF COMMERCE (PUBLICA-
41 TION 400 OR 500) OR ANY SUCCESSOR REVISION IF APPROVED BY THE SUPER-
42 INTENDENT, AND CONTAINS A PROVISION FOR AN EXTENSION OF TIME, OF NOT
43 LESS THAN THIRTY DAYS AFTER RESUMPTION OF BUSINESS, TO DRAW AGAINST THE
44 LETTER OF CREDIT IN THE EVENT THAT ONE OR MORE OF THE OCCURRENCES
45 DESCRIBED IN ARTICLE 19 OF PUBLICATION 400 OR 500 OCCURS; AND

46 (I) IS ISSUED BY A BANK, TRUST COMPANY, OR SAVINGS AND LOAN ASSOCI-
47 ATION THAT:

48 (I) IS ORGANIZED AND EXISTING UNDER THE LAWS OF THE UNITED STATES OR
49 ANY STATE THEREOF OR, IN THE CASE OF A NON-DOMESTIC FINANCIAL INSTITU-
50 TION, HAS A BRANCH OR AGENCY OFFICE LICENSED UNDER THE LAWS OF THE
51 UNITED STATES OR ANY STATE THEREOF AND IS DOMICILED IN A MEMBER COUNTRY
52 OF THE ORGANIZATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT HAVING A
53 SOVEREIGN RATING IN ONE OF THE TOP TWO GENERIC LETTERED RATING CLASSI-
54 FICATIONS BY A SECURITIES RATING AGENCY ACCEPTABLE TO THE SUPERINTEN-
55 DENT;

1 (II) HAS (OR IS THE PRINCIPAL OPERATING SUBSIDIARY OF A FINANCIAL
2 INSTITUTION HOLDING COMPANY THAT HAS) A LONG-TERM DEBT RATING OF AT
3 LEAST INVESTMENT GRADE; AND

4 (III) IS NOT A PARENT, SUBSIDIARY OR AFFILIATE OF THE TRUSTEE OR
5 PAYING AGENT, IF ANY, WITH RESPECT TO THE INSURED OBLIGATION IF SUCH
6 TRUSTEE OF PAYING AGENT IS THE NAMED BENEFICIARY OF THE LETTER OF CRED-
7 IT.

8 (H) "COMMERCIAL REAL ESTATE" MEANS INCOME PRODUCING REAL PROPERTY
9 OTHER THAN RESIDENTIAL PROPERTY CONSISTING OF LESS THAN FIVE UNITS.

10 (I) "CONTINGENCY RESERVE" MEANS AN ADDITIONAL LIABILITY RESERVE ESTAB-
11 LISHED TO PROTECT POLICY HOLDERS AGAINST THE EFFECTS OF ADVERSE ECONOMIC
12 DEVELOPMENTS OR CYCLES OR OTHER UNFORESEEN CIRCUMSTANCES.

13 (J) "GOVERNMENTAL UNIT" MEANS THE UNITED STATES OF AMERICA, CANADA, A
14 MEMBER COUNTRY OF THE ORGANIZATION FOR ECONOMIC CO-OPERATION AND DEVEL-
15 OPMENT HAVING A SOVEREIGN RATING IN ONE OF THE TOP TWO GENERIC LETTERED
16 RATING CLASSIFICATIONS BY A SECURITIES RATING AGENCY ACCEPTABLE TO THE
17 SUPERINTENDENT, A STATE, TERRITORY OR POSSESSION OF THE UNITED STATES OF
18 AMERICA, THE DISTRICT OF COLUMBIA, A PROVINCE OF CANADA, A MUNICIPALITY,
19 OR A POLITICAL SUBDIVISION OF ANY OF THE FOREGOING, OR ANY PUBLIC AGENCY
20 OR INSTRUMENTALITY THEREOF.

21 (K) "EXCESS SPREAD" MEANS, WITH RESPECT TO ANY INSURED ISSUE OF
22 ASSET-BACKED SECURITIES, THE EXCESS OF:

23 (1) THE SCHEDULED CASH FLOW ON THE UNDERLYING ASSETS THAT IS REASON-
24 ABLY PROJECTED TO BE AVAILABLE, OVER THE TERM OF THE INSURED SECURITIES
25 AFTER PAYMENT OF THE EXPENSES ASSOCIATED WITH THE INSURED ISSUE, TO MAKE
26 DEBT SERVICE PAYMENTS ON THE INSURED SECURITIES OVER

27 (2) THE SCHEDULED DEBT SERVICE REQUIREMENTS ON THE INSURED SECURITIES,
28 PROVIDED THAT SUCH EXCESS IS HELD IN THE SAME MANNER AS COLLATERAL IS
29 REQUIRED TO BE HELD UNDER SUBSECTION (G) OF THIS SECTION.

30 (L) "INDUSTRIAL DEVELOPMENT BOND" MEANS ANY SECURITY OR OTHER INSTRU-
31 MENT, OTHER THAN A UTILITY FIRST MORTGAGE OBLIGATION, UNDER WHICH A
32 PAYMENT OBLIGATION IS CREATED, ISSUED BY OR ON BEHALF OF A GOVERNMENTAL
33 UNIT, TO FINANCE A PROJECT SERVING A PRIVATE INDUSTRIAL, COMMERCIAL OR
34 MANUFACTURING PURPOSE, AND NOT PAYABLE OR GUARANTIED BY A GOVERNMENTAL
35 UNIT.

36 (M) "INSURABLE RISK" MEANS, WITH RESPECT TO ASSET-BACKED SECURITIES,
37 AS DEFINED IN SUBSECTION (E) OF THIS SECTION, THAT SUCH OBLIGATION ON AN
38 UNINSURED BASIS HAS BEEN DETERMINED TO BE NOT LESS THAN INVESTMENT GRADE
39 BASED SOLELY ON THE POOL OF ASSETS BACKING THE INSURED OBLIGATION OR
40 SECURING THE INSURER, WITHOUT CONSIDERATION OF THE CREDITWORTHINESS OF
41 THE ISSUER.

42 (N) "INVESTMENT GRADE" MEANS THAT:

43 (1) THE OBLIGATION OR PARITY OBLIGATION OF THE SAME ISSUER HAS BEEN
44 DETERMINED TO BE IN ONE OF THE TOP FOUR GENERIC LETTERED RATING CLASSI-
45 FICATIONS BY A SECURITIES RATING AGENCY ACCEPTABLE TO THE SUPERINTEN-
46 DENT;

47 (2) THE OBLIGATION OR PARITY OBLIGATION OF THE SAME ISSUER HAS BEEN
48 IDENTIFIED IN WRITING BY SUCH RATING AGENCY TO BE OF INVESTMENT GRADE
49 QUALITY; OR

50 (3) IF THE OBLIGATION OR PARITY OBLIGATION OF THE SAME ISSUER HAS NOT
51 BEEN SUBMITTED TO ANY SUCH RATING AGENCY, THE OBLIGATION IS DETERMINED
52 TO BE INVESTMENT GRADE (AS INDICATED BY A RATING IN CATEGORY 1 OR 2) BY
53 THE SECURITIES VALUATION OFFICE OF THE NATIONAL ASSOCIATION OF INSURANCE
54 COMMISSIONERS.

55 (O) "MUNICIPAL BONDS" MEANS MUNICIPAL OBLIGATION BONDS AND SPECIAL
56 REVENUE BONDS.

1 (P) "MUNICIPAL OBLIGATION BOND" MEANS ANY SECURITY OR OTHER INSTRU-
2 MENT, INCLUDING A LEASE PAYABLE OR GUARANTEED BY THE UNITED STATES OR
3 ANOTHER NATIONAL GOVERNMENT THAT QUALIFIES AS A GOVERNMENTAL UNIT OR ANY
4 AGENCY, DEPARTMENT OR INSTRUMENTALITY THEREOF, OR BY A STATE OR AN
5 EQUIVALENT POLITICAL SUBDIVISION OF ANOTHER NATIONAL GOVERNMENT THAT
6 QUALIFIES AS A GOVERNMENTAL UNIT, BUT NOT A LEASE OF ANY OTHER GOVERN-
7 MENTAL UNIT, UNDER WHICH A PAYMENT OBLIGATION IS CREATED, ISSUED BY OR
8 ON BEHALF OF OR PAYABLE OR GUARANTEED BY A GOVERNMENTAL UNIT OR ISSUED
9 BY A SPECIAL PURPOSE CORPORATION, SPECIAL PURPOSE TRUST OR OTHER SPECIAL
10 PURPOSE LEGAL ENTITY TO FINANCE A PROJECT SERVING A SUBSTANTIAL PUBLIC
11 PURPOSE, AND WHICH IS:

12 (1) (A) PAYABLE FROM TAX REVENUES, BUT NOT TAX ALLOCATIONS, WITHIN THE
13 JURISDICTION OF SUCH GOVERNMENTAL UNIT;

14 (B) PAYABLE OR GUARANTEED BY THE UNITED STATES OR ANOTHER NATIONAL
15 GOVERNMENT THAT QUALIFIES AS A GOVERNMENTAL UNIT, OR ANY AGENCY, DEPART-
16 MENT OR INSTRUMENTALITY THEREOF, OR BY A HOUSING AGENCY OF A STATE OR AN
17 EQUIVALENT SUBDIVISION OF ANOTHER NATIONAL GOVERNMENT THAT QUALIFIES AS
18 A GOVERNMENTAL UNIT;

19 (C) PAYABLE FROM RATES OR CHARGES (BUT NOT TOLLS) LEVIED OR COLLECTED
20 IN RESPECT OF A NON-NUCLEAR UTILITY PROJECT, PUBLIC TRANSPORTATION
21 FACILITY (OTHER THAN AN AIRPORT), OR PUBLIC HIGHER EDUCATION FACILITY;
22 OR

23 (D) WITH RESPECT TO LEASE OBLIGATIONS, PAYABLE FROM FUTURE APPROPRI-
24 ATIONS; AND

25 (2) PROVIDED THAT, IN THE CASE OF OBLIGATIONS OF A SPECIAL PURPOSE
26 CORPORATION, SPECIAL PURPOSE TRUST OR OTHER SPECIAL PURPOSE LEGAL ENTI-
27 TY:

28 (A) SUCH OBLIGATIONS ARE INVESTMENT GRADE AT THE TIME OF ISSUANCE;

29 (B) SUCH OBLIGATIONS ARE PAYABLE FROM SOURCES ENUMERATED IN SUBPARA-
30 GRAPH (A), (B), (C) OR (D) OF PARAGRAPH ONE OF THIS SUBSECTION; AND

31 (C) THE PROJECT BEING FINANCED OR THE TOLLS, TARIFFS, USAGE FEES OR
32 OTHER SIMILAR RATES OR CHARGES FOR ITS USE ARE SUBJECT TO REGULATION OR
33 OVERSIGHT BY A GOVERNMENTAL UNIT.

34 (Q) "REINSURANCE" MEANS CESSIONS QUALIFYING FOR CREDIT UNDER SECTION
35 SIX THOUSAND NINE HUNDRED SIX OF THIS ARTICLE.

36 (R) "SUPERINTENDENT" MEANS THE SUPERINTENDENT, COMMISSIONER, OR DIREC-
37 TOR OF THE DEPARTMENT OF INSURANCE.

38 (S) "SPECIAL REVENUE BOND" MEANS ANY SECURITY OR OTHER INSTRUMENT,
39 UNDER WHICH A PAYMENT OBLIGATION IS CREATED, ISSUED BY OR ON BEHALF OF
40 OR PAYABLE OR GUARANTEED BY A GOVERNMENTAL UNIT TO FINANCE A PROJECT
41 SERVING A SUBSTANTIAL PUBLIC PURPOSE, AND NOT PAYABLE FROM ANY OF THE
42 SOURCES ENUMERATED IN SUBSECTION (P) OF THIS SECTION; OR SECURITIES
43 WHICH ARE THE FUNCTIONAL EQUIVALENT OF THE FOREGOING ISSUED BY A
44 NOT-FOR-PROFIT CORPORATION OR A SPECIAL PURPOSE CORPORATION, SPECIAL
45 PURPOSE TRUST OR OTHER SPECIAL PURPOSE LEGAL ENTITY; PROVIDED THAT, IN
46 THE CASE OF OBLIGATIONS OF A SPECIAL PURPOSE CORPORATION, SPECIAL
47 PURPOSE TRUST OR OTHER SPECIAL PURPOSE LEGAL ENTITY,

48 (1) SUCH OBLIGATIONS ARE INVESTMENT GRADE AT THE TIME OF ISSUANCE;

49 (2) SUCH OBLIGATIONS ARE NOT PAYABLE FROM THE SOURCES ENUMERATED IN
50 SUBPARAGRAPH (A), (B), (C) OR (D) OF PARAGRAPH ONE OF SUBSECTION (P) OF
51 THIS SECTION; AND

52 (3) THE PROJECT BEING FINANCED OR THE TOLLS, TARIFFS, USAGE FEES OR
53 OTHER SIMILAR RATES OR CHARGES FOR ITS USE ARE SUBJECT TO REGULATION OR
54 OVERSIGHT BY A GOVERNMENTAL UNIT.

55 (T) "UTILITY FIRST MORTGAGE OBLIGATION" MEANS ANY OBLIGATION OF AN
56 ISSUER SECURED BY A FIRST PRIORITY MORTGAGE ON UTILITY PROPERTY OWNED BY

1 OR LEASED TO AN INVESTOR-OWNED OR COOPERATIVE-OWNED UTILITY COMPANY AND
2 LOCATED IN THE UNITED STATES, CANADA OR A MEMBER COUNTRY OF THE ORGAN-
3 IZATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT HAVING A SOVEREIGN
4 RATING IN ONE OF THE TOP TWO GENERIC LETTERED RATING CLASSIFICATIONS BY
5 A SECURITIES RATING AGENCY ACCEPTABLE TO THE SUPERINTENDENT; PROVIDED
6 THAT THE UTILITY OR UTILITY PROPERTY OR THE USAGE FEES OR OTHER SIMILAR
7 UTILITY RATES OR CHARGES ARE SUBJECT TO REGULATION OR OVERSIGHT BY A
8 GOVERNMENTAL UNIT.

9 S 6902. ORGANIZATION; FINANCIAL REQUIREMENTS. (A) A CREDIT DEFAULT
10 INSURANCE CORPORATION MAY BE ORGANIZED AND LICENSED IN THE MANNER
11 PRESCRIBED IN SECTION ONE THOUSAND TWO HUNDRED ONE OF THIS CHAPTER AND A
12 FOREIGN INSURER MAY BE LICENSED IN THE MANNER PRESCRIBED IN SECTION ONE
13 THOUSAND ONE HUNDRED SIX OF THIS CHAPTER EXCEPT AS MODIFIED BY THE
14 FOLLOWING PROVISIONS:

15 (1) A CORPORATION ORGANIZED FOR THE PURPOSE OF TRANSACTING CREDIT
16 DEFAULT INSURANCE MAY, SUBJECT TO ALL THE APPLICABLE PROVISIONS OF THIS
17 CHAPTER, BE LICENSED TO TRANSACT ONLY THE FOLLOWING ADDITIONAL KINDS OF
18 INSURANCE:

19 (A) RESIDUAL VALUE INSURANCE, AS DEFINED IN PARAGRAPH TWENTY-TWO OF
20 SUBSECTION (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THIS
21 CHAPTER

22 (B) SURETY INSURANCE, AS DEFINED IN PARAGRAPH SIXTEEN OF SUBSECTION
23 (A) SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THIS CHAPTER; AND

24 (C) CREDIT INSURANCE, AS DEFINED IN PARAGRAPH SEVENTEEN OF SUBSECTION
25 (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THIS CHAPTER.

26 (2) A CREDIT DEFAULT INSURANCE CORPORATION MAY ONLY ASSUME THOSE KINDS
27 OF INSURANCE FOR WHICH IT IS LICENSED TO WRITE DIRECT BUSINESS;

28 (3) PRIOR TO THE ISSUANCE OF A LICENSE, UNLESS A PLAN OF OPERATION HAS
29 BEEN PREVIOUSLY APPROVED BY THE SUPERINTENDENT, A CORPORATION SHALL
30 SUBMIT FOR THE APPROVAL OF THE SUPERINTENDENT A PLAN OF OPERATION,
31 DETAILING THE TYPES AND PROJECTED DIVERSIFICATION OF GUARANTIES THAT
32 WILL BE ISSUED, THE UNDERWRITING PROCEDURES THAT WILL BE FOLLOWED, MANA-
33 GERIAL OVERSIGHT METHODS, INVESTMENT POLICIES, AND SUCH OTHER MATTERS AS
34 MAY BE PRESCRIBED BY THE SUPERINTENDENT; AND

35 (4) A CREDIT DEFAULT INSURANCE CORPORATION'S INVESTMENTS IN ANY ONE
36 ENTITY INSURED BY THAT CORPORATION SHALL NOT EXCEED FOUR PERCENT OF ITS
37 ADMITTED ASSETS AT LAST YEAR-END, EXCEPT THAT THIS LIMIT SHALL NOT APPLY
38 TO INVESTMENTS PAYABLE OR GUARANTEED BY A UNITED STATES GOVERNMENTAL
39 UNIT OR NEW YORK STATE IF SUCH INVESTMENTS PAYABLE OR GUARANTEED BY THE
40 UNITED STATES GOVERNMENTAL UNIT OR NEW YORK STATE SHALL BE RATED IN ONE
41 OF THE TOP TWO GENERIC LETTERED RATING CLASSIFICATIONS BY A SECURITIES
42 RATING AGENCY ACCEPTABLE TO THE SUPERINTENDENT.

43 (B) A CREDIT DEFAULT INSURANCE CORPORATION SHALL NOT TRANSACT BUSINESS
44 UNLESS IT HAS PAID-IN CAPITAL OF A LEAST FIFTEEN MILLION DOLLARS AND
45 PAID-IN SURPLUS OF AT LEAST ONE HUNDRED AND SIXTY-FIVE MILLION DOLLARS,
46 AND SHALL AT ALL TIMES THEREAFTER MAINTAIN A MINIMUM SURPLUS TO POLICY-
47 HOLDERS OF AT LEAST ONE HUNDRED AND FIFTY MILLION DOLLARS.

48 (C) A CREDIT DEFAULT INSURANCE COMPANY SHALL BE DEEMED TO BE IN
49 COMPLIANCE WITH PARAGRAPHS ONE AND TWO OF SUBSECTION (B) OF SECTION ONE
50 THOUSAND FOUR HUNDRED TWO OF THIS CHAPTER IF NOT LESS THAN SIXTY PERCENT
51 OF THE AMOUNT OF THE REQUIRED MINIMUM CAPITAL OR MINIMUM SURPLUS TO
52 POLICY HOLDER INVESTMENTS SHALL CONSIST OF THE TYPES SPECIFIED IN PARA-
53 GRAPHS ONE AND TWO OF SUBSECTION (B) OF SECTION ONE THOUSAND FOUR
54 HUNDRED TWO OF THIS CHAPTER AND DIRECT GOVERNMENT OBLIGATIONS OF ANY
55 STATE OF THE UNITED STATES OR OF ANY COUNTY, DISTRICT OR MUNICIPALITY
56 THEREOF, PROVIDED SUCH GOVERNMENT OBLIGATIONS HAVE BEEN GIVEN THE HIGH-

1 EST QUALITY DESIGNATION OF THE SECURITIES VALUATION OFFICE OF THE
2 NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS. BEFORE INVESTING ANY
3 PART OF THE REQUIRED MINIMUM CAPITAL OR SURPLUS IN DIRECT GOVERNMENT
4 OBLIGATIONS OF ANY OTHER STATE OF THE UNITED STATES OR OF ANY COUNTY,
5 DISTRICT OR MUNICIPALITY THEREOF, SUCH CREDIT DEFAULT INSURANCE COMPANY
6 SHALL HAVE INVESTED AT LEAST TEN PERCENT OF SUCH REQUIRED MINIMUM IN
7 GOVERNMENT OBLIGATIONS OF NEW YORK STATE OR OF ANY COUNTY, DISTRICT OR
8 MUNICIPALITY THEREOF. ONLY FOR PURPOSES OF MEETING THE REQUIRED INVEST-
9 MENT IN GOVERNMENT OBLIGATIONS OF NEW YORK STATE, THE INSURER MAY COUNT
10 INVESTMENTS IN ANY GOVERNMENT OBLIGATION OF NEW YORK STATE, WHETHER
11 DIRECT OR OTHERWISE.

12 S 6903. CONTINGENCY, LOSS AND UNEARNED PREMIUM RESERVES; COLLATERAL.
13 (A) CONTINGENCY RESERVES.

14 (1) A CORPORATION SHALL ESTABLISH AND MAINTAIN CONTINGENCY RESERVES
15 FOR THE PROTECTION OF INSURED AND CLAIMANTS AGAINST THE EFFECTS OF
16 EXCESSIVE LOSSES OCCURRING DURING ADVERSE ECONOMIC CYCLES.

17 (2) WITH RESPECT TO CREDIT DEFAULT INSURANCE OF MUNICIPAL OBLIGATION
18 BONDS, SPECIAL REVENUE BONDS, INDUSTRIAL DEVELOPMENT BONDS AND UTILITY
19 FIRST MORTGAGE OBLIGATIONS WRITTEN ON AND AFTER THE FIRST DAY OF THE
20 NEXT CALENDAR QUARTER COMMENCING AFTER THE EFFECTIVE DATE OF THIS ARTI-
21 CLE:

22 (A) THE INSURER SHALL ESTABLISH AND MAINTAIN A CONTINGENCY RESERVE FOR
23 ALL SUCH INSURED ISSUES IN EACH CALENDAR YEAR FOR EACH CATEGORY LISTED
24 IN SUBPARAGRAPH (B) OF THIS PARAGRAPH;

25 (B) THE TOTAL CONTINGENCY RESERVE REQUIRED SHALL BE THE GREATER OF
26 FIFTY PERCENT OF PREMIUMS WRITTEN FOR EACH SUCH CATEGORY OR THE FOLLOW-
27 ING AMOUNT PRESCRIBED FOR EACH SUCH CATEGORY:

28 (I) MUNICIPAL OBLIGATION BONDS, 0.55 PERCENT OF PRINCIPAL GUARANTIED;

29 (II) SPECIAL REVENUE BONDS, AND OBLIGATIONS DEMONSTRATED TO THE SATIS-
30 FACTION OF THE SUPERINTENDENT TO BE THE FUNCTIONAL EQUIVALENT THEREOF,
31 0.85 PERCENT OF PRINCIPAL GUARANTIED;

32 (III) INVESTMENT GRADE INDUSTRIAL DEVELOPMENT BONDS, SECURED BY COLLA-
33 TERAL OR HAVING A TERM OF SEVEN YEARS OR LESS, AND UTILITY FIRST MORT-
34 GAGE OBLIGATIONS, 1.0 PERCENT OF PRINCIPAL GUARANTIED;

35 (IV) OTHER INVESTMENT GRADE INDUSTRIAL DEVELOPMENT BONDS, 1.5 PERCENT
36 OF PRINCIPAL GUARANTIED; AND

37 (V) ALL OTHER INDUSTRIAL DEVELOPMENT BONDS, 2.5 PERCENT OF PRINCIPAL
38 GUARANTIED; AND

39 (C) CONTRIBUTIONS TO THE CONTINGENCY RESERVE REQUIRED BY THIS PARA-
40 GRAPH, EQUAL TO ONE-EIGHTIETH OF THE TOTAL RESERVE REQUIRED, SHALL BE
41 MADE EACH QUARTER FOR TWENTY YEARS, PROVIDED, HOWEVER, THAT CONTRIB-
42 UTIONS MAY BE DISCONTINUED SO LONG AS THE TOTAL RESERVE FOR ALL Catego-
43 RIES LISTED IN CLAUSES (I), (II), (III), (IV) AND (V) OF SUBPARAGRAPH
44 (B) OF THIS PARAGRAPH EXCEEDS THE PERCENTAGES CONTAINED IN SUCH CLAUSES
45 WHEN APPLIED AGAINST UNPAID PRINCIPAL.

46 (3) WITH RESPECT TO ALL OTHER CREDIT DEFAULT INSURANCE WRITTEN ON OR
47 AFTER THE FIRST DAY OF THE NEXT CALENDAR QUARTER COMMENCING AFTER THE
48 DATE THAT THIS SECTION SHALL BECOME LAW:

49 (A) THE INSURER SHALL ESTABLISH AND MAINTAIN A CONTINGENCY RESERVE FOR
50 ALL SUCH INSURED ISSUES IN EACH CALENDAR YEAR FOR EACH SUCH CATEGORY
51 LISTED IN SUBPARAGRAPH (B) OF THIS PARAGRAPH;

52 (B) THE TOTAL CONTINGENCY RESERVE REQUIRED SHALL BE THE GREATER OF
53 FIFTY PERCENT OF PREMIUMS WRITTEN FOR EACH SUCH CATEGORY OR THE FOLLOW-
54 ING AMOUNT PRESCRIBED FOR EACH SUCH CATEGORY:

55 (I) INVESTMENT GRADE OBLIGATIONS, SECURED BY COLLATERAL OR HAVING A
56 TERM OF SEVEN YEARS OR LESS, 1.0 PERCENT OF PRINCIPAL GUARANTIED;

1 (II) OTHER INVESTMENT GRADE OBLIGATIONS, 1.5 PERCENT OF PRINCIPAL
2 GUARANTIED;

3 (III) NON-INVESTMENT GRADE CONSUMER DEBT OBLIGATIONS, 2.0 PERCENT OF
4 PRINCIPAL GUARANTIED;

5 (IV) NON-INVESTMENT GRADE ASSET-BACKED SECURITIES, 2.0 PERCENT OF
6 PRINCIPAL GUARANTIED;

7 (V) OTHER NON-INVESTMENT GRADE OBLIGATIONS, 2.5 PERCENT OF PRINCIPAL
8 GUARANTIED; AND

9 (C) CONTRIBUTIONS TO THE CONTINGENCY RESERVE REQUIRED BY THIS PARA-
10 GRAPH, EQUAL TO ONE-SIXTIETH OF THE TOTAL RESERVE REQUIRED, SHALL BE
11 MADE EACH QUARTER FOR FIFTEEN YEARS, PROVIDED, HOWEVER, THAT CONTRIB-
12 UTIONS MAY BE DISCONTINUED SO LONG AS THE TOTAL RESERVE FOR ALL CATEGO-
13 RIES LISTED IN CLAUSES (I), (II), (III), (IV) AND (V) OF SUBPARAGRAPH
14 (B) OF THIS PARAGRAPH EXCEEDS THE PERCENTAGES CONTAINED IN SUCH CLAUSES
15 WHEN APPLIED AGAINST UNPAID PRINCIPAL.

16 (4) CONTINGENCY RESERVES REQUIRED IN PARAGRAPHS TWO AND THREE OF THIS
17 SUBSECTION MAY BE ESTABLISHED AND MAINTAINED NET OF COLLATERAL AND REIN-
18 SURANCE, PROVIDED THAT, IN THE CASE OF REINSURANCE, THE REINSURANCE
19 AGREEMENT REQUIRES THAT THE REINSURER SHALL, ON OR AFTER THE EFFECTIVE
20 DATE OF THE REINSURANCE, ESTABLISH AND MAINTAIN A RESERVE IN AN AMOUNT
21 EQUAL TO THE AMOUNT BY WHICH THE INSURER REDUCES ITS CONTINGENCY
22 RESERVE, AND CONTINGENCY RESERVES REQUIRED IN PARAGRAPHS TWO AND THREE
23 OF THIS SUBSECTION MAY BE MAINTAINED:

24 (A) NET OF REFUNDINGS AND REFINANCINGS TO THE EXTENT THE REFUNDED OR
25 REFINANCED ISSUE IS PAID OFF OR SECURED BY OBLIGATIONS WHICH ARE DIRECT-
26 LY PAYABLE OR GUARANTIED BY THE UNITED STATES GOVERNMENT AND

27 (B) NET OF INSURED SECURITIES IN A UNIT INVESTMENT TRUST OR MUTUAL
28 FUND THAT HAVE BEEN SOLD FROM THE TRUST OR FUND WITHOUT INSURANCE.

29 (5) THE CONTINGENCY RESERVES MAY BE RELEASED THEREAFTER IN THE SAME
30 MANNER IN WHICH THEY WERE ESTABLISHED AND WITHDRAWALS THEREFROM, TO THE
31 EXTENT OF ANY EXCESS, MAY BE MADE FROM THE EARLIEST CONTRIBUTIONS TO
32 SUCH RESERVES REMAINING THEREIN:

33 (A) WITH THE PRIOR WRITTEN APPROVAL OF THE SUPERINTENDENT:

34 (I) IF THE ACTUAL INCURRED LOSSES FOR THE YEAR, IN THE CASE OF THE
35 CATEGORIES OF GUARANTIES SUBJECT TO PARAGRAPH TWO OF THIS SUBSECTION
36 EXCEEDS THIRTY-FIVE PERCENT OF EARNED PREMIUMS, OR IN THE CASE OF THE
37 CATEGORIES OF GUARANTIES SUBJECT TO PARAGRAPH THREE OF THIS SUBSECTION
38 EXCEED SIXTY-FIVE PERCENT OF EARNED PREMIUMS; OR

39 (II) IF THE CONTINGENCY RESERVE APPLICABLE TO THE CATEGORIES OF CREDIT
40 DEFAULT INSURANCE SUBJECT TO PARAGRAPH TWO OF THIS SUBSECTION HAS BEEN
41 IN EXISTENCE FOR LESS THAN FORTY QUARTERS, OR FOR LESS THAN THIRTY QUAR-
42 TERS FOR THE CATEGORIES OF GUARANTIES SUBJECT TO PARAGRAPH THREE OF THIS
43 SUBSECTION, UPON A DEMONSTRATION SATISFACTORY TO THE SUPERINTENDENT THAT
44 THE AMOUNT CARRIED IS EXCESSIVE IN RELATION TO THE INSURER'S OUTSTANDING
45 OBLIGATIONS UNDER ITS CREDIT DEFAULT INSURANCE.

46 (B) UPON THIRTY DAYS PRIOR WRITTEN NOTICE TO THE SUPERINTENDENT,
47 PROVIDED THAT THE CONTINGENCY RESERVE APPLICABLE TO THE CATEGORIES OF
48 CREDIT DEFAULT INSURANCE SUBJECT TO PARAGRAPH TWO OF THIS SUBSECTION HAS
49 BEEN IN EXISTENCE FOR FORTY QUARTERS, OR THIRTY QUARTERS FOR CATEGORIES
50 OF CREDIT DEFAULT INSURANCE SUBJECT TO PARAGRAPH THREE OF THIS
51 SUBSECTION, UPON A DEMONSTRATION SATISFACTORY TO THE SUPERINTENDENT THAT
52 THE AMOUNT CARRIED IS EXCESSIVE IN RELATION TO THE INSURER'S OUTSTANDING
53 OBLIGATIONS UNDER ITS CREDIT DEFAULT INSURANCE.

54 (6) AN INSURER PROVIDING CREDIT DEFAULT INSURANCE MAY INVEST THE
55 CONTINGENCY RESERVE IN TAX AND LOSS BONDS (OR SIMILAR SECURITIES)
56 PURCHASED PURSUANT TO SECTION 832(E) OF THE INTERNAL REVENUE CODE (OR

1 ANY SUCCESSOR PROVISION), ONLY TO THE EXTENT OF THE TAX SAVINGS RESULT-
2 ING FROM THE DEDUCTION FOR FEDERAL INCOME TAX PURPOSES OF A SUM EQUAL TO
3 THE ANNUAL CONTRIBUTIONS TO THE CONTINGENCY RESERVE. THE CONTINGENCY
4 RESERVE SHALL OTHERWISE BE INVESTED ONLY IN CLASSES OF SECURITIES OR
5 TYPES OF INVESTMENTS SPECIFIED IN PARAGRAPHS ONE, TWO AND THREE OF
6 SUBSECTION (B) OF SECTION ONE THOUSAND FOUR HUNDRED TWO OF THIS CHAPTER
7 AND PARAGRAPHS ONE, TWO AND THREE OF SUBSECTION (A) OF SECTION ONE THOU-
8 SAND FOUR HUNDRED FOUR OF THIS CHAPTER.

9 (B) LOSS RESERVES. (1) THE CASE BASIS METHOD OR SUCH OTHER METHOD AS
10 MAY BE PRESCRIBED BY THE SUPERINTENDENT SHALL BE USED TO ESTABLISH AND
11 MAINTAIN LOSS RESERVES, NET OF COLLATERAL, FOR CLAIMS REPORTED AND
12 UNPAID, IN A MANNER CONSISTENT WITH SECTION FOUR THOUSAND ONE HUNDRED
13 SEVENTEEN OF THIS CHAPTER. A DEDUCTION FROM LOSS RESERVES SHALL BE
14 ALLOWED FOR THE TIME VALUE OF MONEY BY APPLICATION OF A DISCOUNT RATE
15 EQUAL TO THE AVERAGE RATE OF RETURN ON THE ADMITTED ASSETS OF THE INSUR-
16 ER AS OF THE DATE OF THE COMPUTATION OF ANY SUCH RESERVES. THE DISCOUNT
17 RATE SHALL BE ADJUSTED AT THE END OF EACH CALENDAR YEAR.

18 (2) IF THE INSURED PRINCIPAL AND INTEREST ON A DEFAULTED ISSUE OF
19 OBLIGATIONS DUE AND PAYABLE DURING ANY THREE YEARS FOLLOWING THE DATE OF
20 DEFAULT EXCEEDS TEN PERCENT OF THE INSURER'S SURPLUS TO POLICYHOLDERS
21 AND CONTINGENCY RESERVES, ITS RESERVE SO ESTABLISHED SHALL BE SUPPORTED
22 BY A REPORT FROM AN INDEPENDENT SOURCE ACCEPTABLE TO THE SUPERINTENDENT.

23 (C) UNEARNED PREMIUM RESERVE. AN UNEARNED PREMIUM RESERVE SHALL BE
24 ESTABLISHED AND MAINTAINED NET OF REINSURANCE AND COLLATERAL WITH
25 RESPECT TO ALL CREDIT DEFAULT INSURANCE PREMIUMS. WHERE CREDIT DEFAULT
26 INSURANCE PREMIUMS ARE PAID ON AN INSTALLMENT BASIS, AN UNEARNED PREMIUM
27 RESERVE SHALL BE ESTABLISHED AND MAINTAINED, NET OF REINSURANCE AND
28 COLLATERAL, COMPUTED ON A DAILY OR MONTHLY PRO RATA BASIS. ALL OTHER
29 CREDIT DEFAULT INSURANCE PREMIUMS WRITTEN SHALL BE EARNED IN PROPORTION
30 WITH THE EXPIRATION OF EXPOSURE, OR BY SUCH OTHER METHOD AS MAY BE
31 PRESCRIBED BY THE SUPERINTENDENT.

32 (D) COLLATERAL MUST BE DEPOSITED WITH THE INSURER; HELD IN TRUST BY A
33 TRUSTEE OR CUSTODIAN ACCEPTABLE TO THE SUPERINTENDENT FOR THE BENEFIT OF
34 THE INSURER; OR HELD IN TRUST PURSUANT TO THE BOND INDENTURE OR OTHER
35 TRUST ARRANGEMENT, FOR THE BENEFIT OF HOLDERS OF INSURED OBLIGATIONS IN
36 THE FORM OF FUNDS FOR THE PAYMENT OF INSURED OBLIGATIONS, SINKING FUNDS
37 OR OTHER RESERVES WHICH MAY BE USED FOR THE PAYMENT OF INSURED OBLI-
38 GATIONS AND TRUSTEE AND OTHER ADMINISTRATIVE FEES ON A FIRST PRIORITY
39 BASIS ESTABLISHED AND CONTINUALLY MAINTAINED PURSUANT TO THE BOND INDEN-
40 TURE OR OTHER TRUST ARRANGEMENT BY A TRUSTEE ACCEPTABLE TO THE SUPER-
41 INTENDENT. THE SUPERINTENDENT MAY PROMULGATE REGULATIONS TO LIMIT THE
42 AMOUNT OF COLLATERAL PROVIDED BY OBLIGATIONS, LETTERS OF CREDIT OR CRED-
43 IT DEFAULT INSURANCE CONTRACTS OR TO LIMIT THE AMOUNT OF COLLATERAL
44 PROVIDED BY ANY SINGLE ISSUER, BANK OR COUNTERPARTY AS PROVIDED FOR IN
45 THIS SUBSECTION.

46 S 6904. LIMITATIONS. (A) CREDIT DEFAULT INSURANCE MAY BE TRANSACTED IN
47 THIS STATE ONLY BY A CORPORATION LICENSED FOR SUCH PURPOSE PURSUANT TO
48 SECTION SIX THOUSAND NINE HUNDRED TWO OF THIS ARTICLE.

49 (B) PERMISSIBLE CREDIT DEFAULT INSURANCE.

50 (1) THE SUPERINTENDENT SHALL NOT PERMIT THE WRITING OF CREDIT DEFAULT
51 INSURANCE EXCEPT WHERE THE INSURED OR BENEFICIARY UNDER THE POLICY, BOND
52 OR CONTRACT HAS, OR IS EXPECTED TO HAVE AT THE TIME OF THE DEFAULT OR
53 OTHER FAILURE OF THE OBLIGOR UNDER THE DEBT INSTRUMENT OR OTHER MONETARY
54 OBLIGATION, A MATERIAL INTEREST IN SUCH DEFAULT OR OTHER FAILURE; AND A
55 CORPORATION MAY INSURE THE TIMELY PAYMENT OF UNITED STATES DOLLAR DEBT

1 INSTRUMENTS, OR OTHER MONETARY OBLIGATIONS, ONLY IN THE FOLLOWING CATE-
2 GORIES:

3 (A) MUNICIPAL OBLIGATION BONDS;

4 (B) SPECIAL REVENUE BONDS;

5 (C) INDUSTRIAL DEVELOPMENT BONDS;

6 (D) INVESTMENT GRADE OBLIGATIONS OF THE GOVERNMENT OF A COUNTRY, MUNI-
7 CIPALITY, OR A POLITICAL SUBDIVISION OF ANY OF THE FOREGOING, OR ANY
8 PUBLIC AGENCY OR INSTRUMENTALITY THEREOF IF THAT ENTITY DOES NOT MEET
9 THE DEFINITION OF A GOVERNMENTAL UNIT;

10 (E) OBLIGATIONS OF CORPORATIONS, TRUSTS OR OTHER SIMILAR ENTITIES
11 ESTABLISHED UNDER APPLICABLE LAW;

12 (F) PARTNERSHIP OBLIGATIONS;

13 (G) ASSET-BACKED SECURITIES, TRUST CERTIFICATES AND TRUST OBLIGATIONS,
14 PROVIDED THAT,

15 (I) WITH RESPECT TO MORTGAGE-BACKED SECURITIES SECURED BY FIRST MORT-
16 GAGES ON REAL PROPERTY WHICH ARE INSURABLE BY A MORTGAGE GUARANTY INSUR-
17 ER AUTHORIZED UNDER PARAGRAPH TWENTY-THREE OF SUBDIVISION (A) OF
18 SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THIS CHAPTER:

19 1. SUCH MORTGAGES WITH LOAN-TO-VALUE RATIOS IN EXCESS OF EIGHTY
20 PERCENT ARE

21 (I) IN THE CASE OF MORTGAGES ON PROPERTY LOCATED IN THE STATE OF NEW
22 YORK; INSURED BY MORTGAGE GUARANTY INSURERS AUTHORIZED UNDER PARAGRAPH
23 TWENTY-THREE OF SUBDIVISION (A) OF SECTION ONE THOUSAND ONE HUNDRED
24 THIRTEEN OF THIS CHAPTER;

25 (II) IN THE CASE OF MORTGAGES ON PROPERTY LOCATED IN A STATE OTHER
26 THAN THE STATE OF NEW YORK INSURED BY MORTGAGE GUARANTY INSURERS AUTHOR-
27 IZED TO DO BUSINESS IN SUCH OTHER STATE; OR

28 (III) IN AN AGGREGATE PRINCIPAL AMOUNT LESS THAN THE SINGLE RISK
29 LIMITS PRESCRIBED IN PARAGRAPH FIVE OF SUBSECTION (D) OF THIS SECTION;
30 OR

31 2. ADDITIONAL MORTGAGES WITH PRINCIPAL BALANCES, OTHER COLLATERAL WITH
32 A MARKET VALUE, OR (PROVIDED THE INSURED RISK IS INVESTMENT GRADE)
33 EXCESS SPREAD IN AN AMOUNT, IN EACH INSTANCE AT LEAST EQUAL TO THE
34 COVERAGE THAT WOULD OTHERWISE BE PROVIDED BY SUCH MORTGAGE GUARANTY
35 INSURERS IN ACCORDANCE WITH SUBCLAUSE (I) OF THIS CLAUSE ARE PLEDGED AS
36 ADDITIONAL SECURITY FOR THE ASSET-BACKED SECURITIES; OR

37 (II) WITH RESPECT TO ANY ASSET-BACKED SECURITIES BACKED BY ANOTHER
38 POOL OF ASSET-BACKED SECURITIES:

39 1. THE POOL OF ASSET-BACKED SECURITIES SHALL BE COMPRISED OF
40 ASSET-BACKED SECURITIES HAVING A RIGHT TO PAYMENT AND RIGHTS IN INSOL-
41 VENCY THAT ARE NOT SUBORDINATED TO ANY OTHER SECURITY OF THE ISSUER, IN
42 THE EVENT OF A PAYMENT DEFAULT BY, OR REHABILITATION OR INSOLVENCY OF,
43 THE ISSUER;

44 2. THE CREDIT DEFAULT INSURER SHALL POSSESS CONTROL AND REMEDIATION
45 RIGHTS SUBSTANTIALLY SIMILAR TO THOSE HELD BY THE MOST SENIOR CLASS OF
46 SECURITIES OF THE ISSUER OF THE INSURED OBLIGATIONS BACKED BY THE SAME
47 POOL OF ASSETS;

48 3. THE POOL CONSISTS OF ASSET-BACKED SECURITIES THAT ARE ISSUED OR
49 GUARANTEED BY A GOVERNMENTAL UNIT, FEDERAL NATIONAL MORTGAGE ASSOCI-
50 ATION, FEDERAL HOME LOAN MORTGAGE CORPORATION, FEDERAL HOME LOAN BANK,
51 THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION, OR THE FEDERAL FARM CRED-
52 IT SYSTEM BANKS AS A CONSOLIDATED DEBT OBLIGATION OR A SYSTEM WIDE DEBT
53 OBLIGATION TO THE EXTENT THAT THE OBLIGATIONS ARE COVERED BY THE FARM
54 CREDIT INSURANCE FUND;

55 4. THE POOL CONSISTS ENTIRELY OF ASSET-BACKED SECURITIES INSURED BY
56 THE CREDIT DEFAULT INSURER; OR

1 5. THE SUPERINTENDENT HAS DETERMINED THAT INSURING THE ASSET-BACKED
2 SECURITIES DOES NOT PRESENT UNDUE RISK TO THE CREDIT DEFAULT INSURER.

3 (H) INSTALLMENT PURCHASE AGREEMENTS EXECUTED AS A CONDITION OF SALE;

4 (I) CONSUMER DEBT OBLIGATIONS;

5 (J) UTILITY FIRST MORTGAGE OBLIGATIONS; AND

6 (K) ANY OTHER DEBT INSTRUMENT OR FINANCIAL OBLIGATION THAT THE SUPER-
7 INTENDENT DETERMINES TO BE SUBSTANTIALLY SIMILAR TO ANY OF THE FOREGOING
8 OR SHALL OTHERWISE BE APPROVED BY THE SUPERINTENDENT.

9 (2) AN INSURER MAY INSURE OBLIGATIONS ENUMERATED IN SUBPARAGRAPHS (A),
10 (B) AND (C) OF PARAGRAPH ONE OF THIS SUBSECTION THAT ARE NOT INVESTMENT
11 GRADE SO LONG AS AT LEAST NINETY-FIVE PERCENT OF THE INSURER'S AGGREGATE
12 NET LIABILITY ON THE KINDS OF OBLIGATIONS ENUMERATED IN SUBPARAGRAPHS
13 (A), (B) AND (C) OF PARAGRAPH ONE OF THIS SUBSECTION SHALL BE INVESTMENT
14 GRADE.

15 (3) A CORPORATION MAY INSURE THE TIMELY PAYMENT OF MONETARY OBLI-
16 GATIONS IN ANY CATEGORY DESIGNATED IN THIS SUBSECTION NOTWITHSTANDING
17 THAT SUCH OBLIGATION MAY BE INSURED BY AN INSURANCE POLICY ISSUED BY
18 ANOTHER INSURER. IN THE EVENT THAT ANY OBLIGATION IS INSURED BY MORE
19 THAN ONE CREDIT DEFAULT INSURANCE POLICY, THEN EACH SUCH INSURANCE POLI-
20 CY MAY BY ITS TERMS SPECIFY ITS PRIORITY OF PAYMENT IN THE EVENT OF A
21 DEFAULT UNDER THE OBLIGATION INSURED OR ANY OTHER INSURANCE POLICY;
22 PROVIDED THAT AN INSURER SHALL BE ENTITLED TO TAKE INTO ACCOUNT PAYMENT
23 UNDER ANOTHER POLICY INSURING SUCH OBLIGATION FOR PURPOSES OF ESTABLISH-
24 ING AND MAINTAINING LOSS RESERVES ONLY TO THE EXTENT THAT THE POLICY
25 ISSUED BY SUCH INSURER PROVIDES FOR PAYMENT ONLY IN THE EVENT OF PAYMENT
26 DEFAULT UNDER BOTH SUCH OBLIGATION AND THE OTHER POLICY.

27 (4) A CORPORATION MAY ALSO WRITE CREDIT DEFAULT INSURANCE AS DEFINED
28 IN THIS ARTICLE TO INSURE THE TIMELY PAYMENT OF NON-UNITED STATES DOLLAR
29 DEBT INSTRUMENTS OR OTHER MONETARY OBLIGATIONS DENOMINATED OR PAYABLE IN
30 FOREIGN CURRENCY, ONLY FOR THE CATEGORIES LISTED IN SUBPARAGRAPHS (A)
31 THROUGH (K) OF PARAGRAPH ONE OF THIS SUBSECTION, PROVIDED THAT:

32 (A) SUCH CURRENCY IS THAT OF AN ORGANIZATION FOR ECONOMIC CO-OPERATION
33 AND DEVELOPMENT COUNTRY OR SUCH OTHER COUNTRY

34 (I) WHOSE SOVEREIGN RATING IS INVESTMENT GRADE OR

35 (II) AS SHALL NOT OTHERWISE BE DISAPPROVED BY THE SUPERINTENDENT WITH-
36 IN THIRTY DAYS FOLLOWING RECEIPT OF WRITTEN NOTIFICATION. THE SUPER-
37 INTENDENT SHALL NOT DISAPPROVE SUCH NOTIFICATION UPON DEMONSTRATION THAT
38 THERE IS NO UNDUE RISK ASSOCIATED WITH INSURING THE TIMELY PAYMENT OF
39 SUCH INSTRUMENTS OR OBLIGATIONS. IN MAKING SUCH A DETERMINATION THE
40 SUPERINTENDENT SHALL TAKE INTO CONSIDERATION THE CORPORATION'S OUTSTAND-
41 ING LIABILITIES ON NON-INVESTMENT GRADE INSTRUMENTS AND OBLIGATIONS IN
42 RELATION TO ITS OUTSTANDING LIABILITIES ON ALL INSTRUMENTS AND OBLI-
43 GATIONS AND IN RELATION TO THE AMOUNT OF ITS SURPLUS TO POLICYHOLDERS.

44 (B) RESERVES REQUIRED PURSUANT TO SECTION SIX THOUSAND NINE HUNDRED
45 THREE OF THIS ARTICLE IN REGARD TO SUCH OBLIGATIONS SHALL BE ESTABLISHED
46 AND ADJUSTED QUARTERLY BASED UPON THE THEN CURRENT FOREIGN EXCHANGE
47 RATES;

48 (C) SUCH OBLIGATIONS SHALL NOT EXCEED TWENTY-FIVE PERCENT OF AN INSUR-
49 ER'S AGGREGATE NET LIABILITY; AND

50 (D) THE AGGREGATE AND SINGLE RISK LIMITATIONS PRESCRIBED BY
51 SUBSECTIONS (C) AND (D) OF THIS SECTION SHALL BE DETERMINED BY APPLYING
52 THE THEN CURRENT FOREIGN EXCHANGE RATES.

53 (C) AGGREGATE RISK LIMITS. THE CORPORATION MUST AT ALL TIMES MAINTAIN
54 SURPLUS TO POLICYHOLDERS AND CONTINGENCY RESERVES IN THE AGGREGATE NO
55 LESS THAN THE SUM OF:

1 (1) (A) 0.3333 PERCENT OR 1/300TH OF THE AGGREGATE NET LIABILITY UNDER
2 CREDIT DEFAULT INSURANCE IN WHICH THE UNDERLYING OBLIGATIONS ARE MUNICI-
3 PAL BONDS INCLUDING OBLIGATIONS DEMONSTRATED TO THE SATISFACTION OF THE
4 SUPERINTENDENT TO BE THE FUNCTIONAL EQUIVALENT THEREOF AND INVESTMENT
5 GRADE UTILITY FIRST MORTGAGE OBLIGATIONS; PLUS
6 (B) 0.666 PERCENT OR 1/150TH OF THE AGGREGATE NET LIABILITY UNDER
7 CREDIT DEFAULT INSURANCE IN WHICH THE UNDERLYING OBLIGATIONS ARE INVEST-
8 MENT GRADE ASSET-BACKED SECURITIES; PLUS
9 (C) 1.0 PERCENT OR 1/100TH OF THE AGGREGATE NET LIABILITY UNDER CREDIT
10 DEFAULT INSURANCE IN WHICH THE UNDERLYING OBLIGATIONS ARE SECURED BY
11 COLLATERAL OR HAVING A TERMS OF SEVEN YEARS OR LESS, OF:
12 (I) INVESTMENT GRADE INDUSTRIAL DEVELOPMENT BONDS,
13 (II) OTHER INVESTMENT GRADE OBLIGATIONS; PLUS
14 (D) 1.5 PERCENT OR 1/66.67TH OF THE AGGREGATE NET LIABILITY UNDER
15 CREDIT DEFAULT INSURANCE IN WHICH THE UNDERLYING OBLIGATIONS ARE INVEST-
16 MENT GRADE OBLIGATIONS; PLUS
17 (E) 2.0 PERCENT OR 1/50TH OF THE AGGREGATE NET LIABILITY UNDER CREDIT
18 DEFAULT INSURANCE IN WHICH THE UNDERLYING OBLIGATIONS ARE:
19 (I) NON-INVESTMENT GRADE CONSUMER DEBT OBLIGATIONS, AND
20 (II) NON-INVESTMENT GRADE ASSET-BACKED SECURITIES; PLUS
21 (F) 2.5 PERCENT OR 1/40TH OF THE AGGREGATE NET LIABILITY UNDER CREDIT
22 DEFAULT INSURANCE IN WHICH THE UNDERLYING OBLIGATIONS ARE NON-INVESTMENT
23 GRADE OBLIGATIONS SECURED BY FIRST MORTGAGES ON COMMERCIAL REAL ESTATE
24 AND HAVING LOAN-TO-VALUE RATIOS OF EIGHTY PERCENT OR LESS; PLUS
25 (G) 4.0 PERCENT OR 1/25TH OF THE AGGREGATE NET LIABILITY UNDER CREDIT
26 DEFAULT INSURANCE IN WHICH THE UNDERLYING OBLIGATIONS ARE OTHER NON-IN-
27 VESTMENT GRADE OBLIGATIONS; AND
28 (H) IF THE AMOUNT OF COLLATERAL REQUIRED BY SUBPARAGRAPH (III) OF THIS
29 PARAGRAPH IS NO LONGER MAINTAINED, THAT PROPORTION OF THE OBLIGATION
30 INSURED WHICH IS NOT SO COLLATERALIZED SHALL BE SUBJECT TO THE AGGREGATE
31 LIMITS SPECIFIED IN SUBPARAGRAPH (IV) OF THIS PARAGRAPH; AND
32 (2) SURPLUS TO POLICYHOLDERS DETERMINED BY THE SUPERINTENDENT TO BE
33 ADEQUATE TO SUPPORT THE WRITING OF RESIDUAL VALUE INSURANCE, SURETY
34 INSURANCE AND CREDIT INSURANCE, IF THE CORPORATION HAS ELECTED TO TRANS-
35 ACT SUCH KINDS OF INSURANCE PURSUANT TO SUBSECTION (A) OF SECTION SIX
36 THOUSAND NINE HUNDRED TWO OF THIS ARTICLE.
37 (D) SINGLE RISK LIMITS. A CREDIT DEFAULT INSURANCE CORPORATION SHALL
38 LIMIT ITS EXPOSURE TO LOSS ON ANY ONE RISK INSURED BY POLICIES PROVIDING
39 CREDIT DEFAULT INSURANCE, NET OF COLLATERAL AND REINSURANCE, AS FOLLOWS:
40 (1) FOR MUNICIPAL OBLIGATION BONDS, SPECIAL REVENUE BONDS, AND OBLI-
41 GATIONS DEMONSTRATED TO THE SATISFACTION OF THE SUPERINTENDENT TO BE THE
42 FUNCTIONAL EQUIVALENT THEREOF:
43 (A) THE INSURED AVERAGE ANNUAL DEBT SERVICE WITH RESPECT TO A SINGLE
44 ENTITY AND BACKED BY A SINGLE REVENUE SOURCE SHALL NOT EXCEED TEN
45 PERCENT OF THE AGGREGATE OF THE INSURER'S SURPLUS TO POLICYHOLDERS AND
46 CONTINGENCY RESERVE;
47 (B) THE INSURED UNPAID PRINCIPAL ISSUED BY A SINGLE ENTITY AND BACKED
48 BY A SINGLE REVENUE SOURCE SHALL NOT EXCEED SEVENTY-FIVE PERCENT OF THE
49 AGGREGATE OF THE INSURER'S SURPLUS TO POLICYHOLDERS AND CONTINGENCY
50 RESERVE;
51 (2) FOR EACH ISSUE OF ASSET-BACKED SECURITIES ISSUED BY A SINGLE ENTI-
52 TY AND FOR EACH POOL OF CONSUMER DEBT OBLIGATIONS, THE LESSER OF:
53 (A) INSURED AVERAGE ANNUAL DEBT SERVICE; OR
54 (B) INSURED UNPAID PRINCIPAL (REDUCED BY THE EXTENT TO WHICH THE
55 UNPAID PRINCIPAL OF THE SUPPORTING ASSETS AND, PROVIDED THE INSURED RISK
56 IS INVESTMENT GRADE, EXCESS SPREAD EXCEED THE INSURED UNPAID PRINCIPAL)

1 DIVIDED BY NINE; SHALL NOT EXCEED TEN PERCENT OF THE AGGREGATE OF THE
2 INSURER'S SURPLUS TO POLICYHOLDERS AND CONTINGENCY RESERVE, PROVIDED
3 THAT NO ASSET IN THE POOL SUPPORTING THE ASSET-BACKED SECURITIES EXCEEDS
4 THE SINGLE RISK LIMITS PRESCRIBED IN PARAGRAPH FIVE OF THIS SUBSECTION,
5 IF INSURED; AND PROVIDED FURTHER THAT, IF THE ISSUER OF SUCH INSURED
6 ASSET-BACKED SECURITIES IS A SPECIAL PURPOSE CORPORATION, TRUST OR OTHER
7 ENTITY AND SUCH ISSUER SHALL HAVE INDEBTEDNESS OUTSTANDING WITH RESPECT
8 TO ANY OTHER POOL OF ASSETS, EITHER SUCH OTHER INDEBTEDNESS SHALL BE
9 ENTITLED TO THE BENEFITS OF A CREDIT DEFAULT INSURANCE POLICY OF THE
10 SAME INSURER, OR SUCH OTHER INDEBTEDNESS SHALL:

11 (I) BE FULLY SUBORDINATED TO THE INSURED OBLIGATION, WITH RESPECT TO,
12 OR BE NON-RECOURSE WITH RESPECT TO, THE POOL OF ASSETS THAT SUPPORTS THE
13 INSURED OBLIGATION,

14 (II) BE NON-RECOURSE TO THE ISSUER OTHER THAN WITH RESPECT TO THE
15 ASSET POOL SECURING SUCH OTHER INDEBTEDNESS AND PROCEEDS IN EXCESS OF
16 THE PROCEEDS NECESSARY TO PAY THE INSURED OBLIGATION ("EXCESS PROCEEDS")
17 AND

18 (III) NOT CONSTITUTE A CLAIM AGAINST THE ISSUER TO THE EXTENT THAT THE
19 ASSET POOL SECURING SUCH OTHER INDEBTEDNESS OR EXCESS PROCEEDS ARE
20 INSUFFICIENT TO PAY SUCH OTHER INDEBTEDNESS AND PROVIDED FURTHER THAT,
21 IN THE CASE OF ASSET-BACKED SECURITIES THAT ARE SUBORDINATE, IN RIGHT OF
22 PAYMENT IN THE EVENT OF AN ISSUER INSOLVENCY, TO ANY OTHER SECURITIES OF
23 THE ISSUER BACKED BY THE SAME POOL OF ASSETS, FOR PURPOSES OF THIS PARA-
24 GRAPH ONLY, THE INSURED AVERAGE ANNUAL DEBT SERVICE AND INSURED UNPAID
25 PRINCIPAL SHALL BE DEEMED TO BE THE LESSER OF:

26 1. THREE HUNDRED PERCENT OF THE INSURED AVERAGE ANNUAL DEBT SERVICE
27 AND INSURED UNPAID PRINCIPAL RESPECTIVELY OR

28 2. THE INSURED AVERAGE ANNUAL DEBT SERVICE AND INSURED UNPAID PRINCI-
29 PAL RESPECTIVELY IF THE SCHEDULED PRINCIPAL OF AND INTEREST ON ALL
30 SENIOR SECURITIES OF THE ISSUER WERE INCLUDED IN THE AMOUNT INSURED BY
31 THE INSURER FOR PURPOSES OF CALCULATING INSURED AVERAGE ANNUAL DEBT
32 SERVICE AND INSURED UNPAID PRINCIPAL.

33 (3) FOR OBLIGATIONS ISSUED BY A SINGLE ENTITY AND SECURED BY COMMER-
34 CIAL REAL ESTATE, AND NOT MEETING THE DEFINITION OF ASSET-BACKED SECURI-
35 TIES, THE INSURED UNPAID PRINCIPAL LESS FIFTY PERCENT OF THE APPRAISED
36 VALUE OF THE UNDERLYING REAL ESTATE SHALL NOT EXCEED TEN PERCENT OF THE
37 AGGREGATE OF THE INSURER'S SURPLUS TO POLICYHOLDERS AND CONTINGENCY
38 RESERVE;

39 (4) FOR UTILITY FIRST MORTGAGE OBLIGATIONS, THE INSURED AVERAGE ANNUAL
40 DEBT SERVICE SHALL NOT EXCEED TEN PERCENT OF THE AGGREGATE OF THE INSUR-
41 ER'S SURPLUS TO POLICYHOLDERS AND CONTINGENCY RESERVE; AND

42 (5) FOR ALL OTHER POLICIES PROVIDING CREDIT DEFAULT INSURANCE WITH
43 RESPECT TO OBLIGATIONS ISSUED BY A SINGLE ENTITY AND BACKED BY A SINGLE
44 REVENUE SOURCE, THE INSURED UNPAID PRINCIPAL SHALL NOT EXCEED TEN
45 PERCENT OF THE AGGREGATE OF THE INSURER'S SURPLUS TO POLICYHOLDERS AND
46 CONTINGENCY RESERVE.

47 (E) IF AN INSURER AT ANY TIME EXCEEDS ANY LIMITATION PRESCRIBED BY
48 SUBSECTION (C) OR (D) OF THIS SECTION, THE INSURER SHALL WITHIN THIRTY
49 DAYS AFTER THE LIMITATIONS ARE BREACHED, SUBMIT A WRITTEN PLAN TO THE
50 SUPERINTENDENT DETAILING THE STEPS THAT IT WILL TAKE OR HAS TAKEN TO
51 REDUCE ITS EXPOSURE TO LOSS TO NO MORE THAN THE PERMITTED AMOUNTS, AND
52 IF AFTER NOTICE AND HEARING THE SUPERINTENDENT DETERMINES THAT AN INSUR-
53 ER HAS EXCEEDED ANY LIMITATION PRESCRIBED BY THIS SECTION, HE OR SHE MAY
54 ORDER SUCH INSURER TO CEASE TRANSACTING ANY NEW CREDIT DEFAULT INSURANCE
55 BUSINESS UNTIL ITS EXPOSURE TO LOSS NO LONGER EXCEEDS SAID LIMITATIONS.

1 (F) NO INSURER AUTHORIZED TO TRANSACT THE BUSINESS OF CREDIT DEFAULT
2 INSURANCE SHALL PAY ANY COMMISSION OR MAKE ANY GIFT OF MONEY, PROPERTY
3 OR OTHER VALUABLE THING TO ANY EMPLOYEE, AGENT OR REPRESENTATIVE OF ANY
4 POTENTIAL PURCHASER OF A CREDIT DEFAULT INSURANCE POLICY, AS AN INDUCE-
5 MENT TO THE PURCHASE OF SUCH A POLICY, AND NO SUCH EMPLOYEE, AGENT OR
6 REPRESENTATIVE OF SUCH POTENTIAL PURCHASER SHALL RECEIVE ANY SUCH
7 PAYMENT OR GIFT. VIOLATION OF THE PROVISIONS OF THIS SECTION SHALL NOT,
8 HOWEVER, HAVE THE EFFECT OF RENDERING VOID THE INSURANCE POLICY ISSUED
9 BY THE INSURER.

10 S 6905. POLICY FORMS AND RATES. (A) POLICY FORMS AND ANY AMENDMENTS
11 THERETO SHALL BE FILED WITH THE SUPERINTENDENT WITHIN THIRTY DAYS OF
12 THEIR USE BY THE INSURER IF NOT OTHERWISE FILED PRIOR TO THE EFFECTIVE
13 DATE OF THIS SECTION.

14 (B) EVERY CREDIT DEFAULT INSURANCE POLICY SHALL PROVIDE THAT, IN THE
15 EVENT OF A PAYMENT DEFAULT BY OR INSOLVENCY OF THE OBLIGOR, THERE SHALL
16 BE NO ACCELERATION OF THE PAYMENT REQUIRED TO BE MADE UNDER SUCH POLICY
17 UNLESS THE ACCELERATION IS PERMITTED BY THE CREDIT DEFAULT INSURER AT
18 ITS SOLE OPTION, EXERCISED AT THE TIME OF THE PAYMENT.

19 (C) A CREDIT DEFAULT INSURANCE POLICY SHALL NOT PROVIDE THAT COMMENCE-
20 MENT OF REHABILITATION, LIQUIDATION OR CONSERVATORSHIP PROCEEDINGS UNDER
21 ARTICLE SEVENTY-FOUR OF THIS CHAPTER, BANKRUPTCY OR ANY OTHER SIMILAR
22 PROCEEDINGS WHETHER UNDER THE LAWS OF THIS STATE OR ANOTHER STATE, WITH
23 RESPECT TO A CREDIT DEFAULT INSURER OR THE INSURED ACCELERATES ANY
24 PAYMENT REQUIRED TO BE MADE UNDER THE POLICY, ABSENT A PAYMENT DEFAULT
25 BY THE OBLIGOR OR THE INSURER.

26 (D) A CREDIT DEFAULT INSURANCE POLICY MAY PROVIDE THAT EITHER THE
27 CREDIT DEFAULT INSURER OR THE INSURED MAY TERMINATE THE POLICY AS A
28 CONSEQUENCE OF THE COMMENCEMENT OF REHABILITATION, LIQUIDATION OR
29 CONSERVATORSHIP PROCEEDINGS UNDER ARTICLE SEVENTY-FOUR OF THIS CHAPTER,
30 BANKRUPTCY OR ANY OTHER SIMILAR PROCEEDINGS, WHETHER UNDER THE LAWS OF
31 THIS STATE OR ANOTHER STATE, WITH RESPECT TO A CREDIT DEFAULT INSURER OR
32 THE INSURED, PROVIDED THAT THE TERMINATION:

33 (1) DOES NOT ACCELERATE OR OTHERWISE INCREASE THE OBLIGATION OF THE
34 CREDIT DEFAULT INSURER TO MAKE SCHEDULED PAYMENTS WHEN DUE UNDER THE
35 POLICY; AND

36 (2) DOES NOT REQUIRE THE INSURER TO MAKE ANY ADDITIONAL PAYMENT TO THE
37 INSURED BY THE REASON OF THE TERMINATION.

38 (E) THE SUPERINTENDENT BY REGULATION MAY PRESCRIBE MINIMUM POLICY
39 PROVISIONS DETERMINED BY THE SUPERINTENDENT TO BE NECESSARY OR APPROPRI-
40 ATE TO PROTECT CREDIT DEFAULT INSURERS, POLICYHOLDERS, CLAIMANTS, OBLI-
41 GEES OR INDEMNITIES OR THE PEOPLE OF THIS STATE.

42 (F) RATES SHALL NOT BE EXCESSIVE, INADEQUATE, UNFAIRLY DISCRIMINATORY,
43 DESTRUCTIVE OF COMPETITION, DETRIMENTAL TO THE SOLVENCY OF THE INSURER,
44 OR OTHERWISE UNREASONABLE. IN DETERMINING WHETHER RATES COMPLY WITH THE
45 FOREGOING STANDARDS, THE SUPERINTENDENT SHALL INCLUDE ALL INCOME EARNED
46 BY SUCH INSURER. CRITERIA AND GUIDELINES UTILIZED BY INSURERS IN ESTAB-
47 LISHING RATING CATEGORIES AND RANGES OF RATES TO BE UTILIZED SHALL BE
48 FILED WITH THE SUPERINTENDENT FOR INFORMATION PRIOR TO THEIR USE BY THE
49 INSURER IF NOT OTHERWISE FILED PRIOR TO THE EFFECTIVE DATE OF THIS ARTI-
50 CLE.

51 (G) ALL SUCH FILINGS SHALL BE AVAILABLE FOR PUBLIC INSPECTION AT THE
52 INSURANCE DEPARTMENT.

53 S 6906. REINSURANCE. (A) FOR CREDIT DEFAULT INSURANCE THAT TAKES
54 EFFECT ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION, AN INSURER
55 AUTHORIZED TO TRANSACT CREDIT DEFAULT INSURANCE SHALL RECEIVE CREDIT FOR
56 REINSURANCE, IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER APPLICA-

1 BLE TO PROPERTY/CASUALTY INSURERS, AS AN ASSET OR AS A REDUCTION FROM
2 LIABILITIES PROVIDED THAT SUCH REINSURANCE IS SUBJECT TO AN AGREEMENT
3 THAT, FOR ITS STATED TERM AND WITH RESPECT TO ANY SUCH REINSURED CREDIT
4 DEFAULT INSURANCE IN FORCE, THE REINSURANCE AGREEMENT (FACULTATIVE OR
5 TREATY) MAY ONLY BE TERMINATED OR AMENDED

6 (1) AT THE OPTION OF THE REINSURER OR THE CEDING INSURER, IF THE REIN-
7 SURANCE AGREEMENT PROVIDES THAT THE LIABILITY OF THE REINSURER WITH
8 RESPECT TO POLICIES IN EFFECT AT THE DATE OF TERMINATION SHALL CONTINUE
9 UNTIL THE EXPIRATION OR CANCELLATION OF EACH SUCH POLICY, OR

10 (2) WITH THE CONSENT OF THE CEDING COMPANY, IF THE REINSURANCE AGREE-
11 MENT PROVIDES FOR A CUTOFF OF THE REINSURANCE IN FORCE AT THE DATE OF
12 TERMINATION, OR

13 (3) AT THE DISCRETION OF THE SUPERINTENDENT ACTING AS REHABILITATOR,
14 LIQUIDATOR OR RECEIVER OF THE CEDING OR ASSUMING INSURER; AND PROVIDED
15 THAT SUCH REINSURANCE IS:

16 (A) PLACED WITH A CREDIT DEFAULT INSURANCE CORPORATION LICENSED UNDER
17 SECTION SIX THOUSAND NINE HUNDRED TWO OF THIS ARTICLE OR AN INSURER
18 WRITING ONLY CREDIT DEFAULT INSURANCE AS IS OR WOULD BE PERMITTED BY
19 SUCH SECTION OF THIS ARTICLE; OR

20 (B) PLACED WITH A PROPERTY/CASUALTY INSURER OR AN ACCREDITED REINSURER
21 LICENSED OR ACCREDITED TO REINSURE RISKS OF EVERY KIND OR DESCRIPTION
22 (INCLUDING MUNICIPAL OBLIGATION BONDS), AS SET FORTH IN SUBSECTION (C)
23 OF SECTION FOUR THOUSAND ONE HUNDRED TWO OF THIS CHAPTER, IF THE REIN-
24 SURANCE AGREEMENT WITH SUCH INSURER REQUIRES THAT SUCH INSURER:

25 (I) HAVE AND MAINTAIN SURPLUS TO POLICYHOLDERS OF AT LEAST THIRTY-FIVE
26 MILLION DOLLARS;

27 (II) ESTABLISH AND MAINTAIN THE RESERVES REQUIRED IN SECTION SIX THOU-
28 SAND NINE HUNDRED THREE OF THIS ARTICLE, EXCEPT THAT IF THE REINSURANCE
29 AGREEMENT IS NOT PRO RATA THE CONTRIBUTION TO THE CONTINGENCY RESERVE
30 SHALL BE EQUAL TO FIFTY PERCENT OF THE QUARTERLY EARNED REINSURANCE
31 PREMIUM. HOWEVER, THE ASSUMING INSURER NEED NOT ESTABLISH AND MAINTAIN
32 SUCH RESERVE TO THE EXTENT THAT THE CEDING INSURER HAS ESTABLISHED AND
33 CONTINUES TO MAINTAIN SUCH RESERVE;

34 (III) COMPLY WITH THE PROVISIONS OF SUBSECTION (C) OF SECTION SIX
35 THOUSAND NINE HUNDRED FOUR OF THIS ARTICLE, EXCEPT THAT THE MAXIMUM
36 TOTAL EXPOSURES REINSURED NET OF RETROCESSIONS AND COLLATERAL SHALL BE
37 ONE-HALF OF THAT PERMITTED FOR A CREDIT DEFAULT INSURANCE CORPORATION;

38 (IV) IF A PARENT OF THE INSURER, ANOTHER SUBSIDIARY OF THE PARENT OF
39 THE INSURER, OR A SUBSIDIARY OF THE INSURER, THEN THE AGGREGATE OF ALL
40 RISKS ASSUMED BY SUCH REINSURERS SHALL NOT EXCEED TEN PERCENT OF THE
41 INSURER'S EXPOSURES, NET OF RETROCESSIONS AND COLLATERAL. DIRECT OR
42 INDIRECT OWNERSHIP INTERESTS OF FIFTY PERCENT OR MORE SHALL BE DEEMED A
43 PARENT/SUBSIDIARY RELATIONSHIP;

44 (V) IF AN AFFILIATE OF THE INSURER, SUCH AFFILIATE SHALL NOT ASSUME A
45 PERCENTAGE OF THE INSURER'S TOTAL EXPOSURES INSURED NET OF RETROCESSIONS
46 AND COLLATERAL IN EXCESS OF ITS PERCENTAGE OF EQUITY INTEREST IN THE
47 INSURER; AND

48 (VI) ASSUMES FROM THE CREDIT DEFAULT INSURANCE CORPORATION AND ANY
49 AFFILIATE, PARENT OF THE INSURER, ANOTHER SUBSIDIARY OF THE PARENT OF
50 THE INSURER, OR SUBSIDIARY OF THE INSURER THAT IS A CREDIT DEFAULT
51 INSURANCE CORPORATION OR AN INSURER WRITING ONLY CREDIT DEFAULT INSUR-
52 ANCE AS IS OR WOULD BE PERMITTED BY THIS ARTICLE, TOGETHER WITH ALL
53 OTHER REINSURERS SUBJECT TO THIS PARAGRAPH, LESS THAN FIFTY PERCENT OF
54 THE TOTAL EXPOSURES INSURED BY THE CREDIT DEFAULT INSURANCE CORPORATION
55 AND SUCH AFFILIATES, PARENTS OR SUBSIDIARIES OF THE INSURER, NET OF
56 COLLATERAL, REMAINING AFTER DEDUCTING ANY REINSURANCE PLACED WITH ANOTH-

1 ER CREDIT DEFAULT INSURANCE CORPORATION THAT IS NOT AN AFFILIATE, A
2 PARENT OF THE CREDIT DEFAULT INSURANCE CORPORATION, ANOTHER SUBSIDIARY
3 OF THE PARENT OF THE INSURER, OR A SUBSIDIARY OF THE INSURER OR A CREDIT
4 DEFAULT INSURANCE CORPORATION WRITING ONLY CREDIT DEFAULT INSURANCE AS
5 IS OR WOULD BE PERMITTED BY THIS SECTION THAT IS NOT AN AFFILIATE, A
6 PARENT OF THE CREDIT DEFAULT INSURANCE CORPORATION, ANOTHER SUBSIDIARY
7 OF THE PARENT OF THE INSURER, OR A SUBSIDIARY OF THE INSURER; OR

8 (4) IF PLACED WITH AN UNAUTHORIZED OR UNACCREDITED REINSURER WHICH
9 OTHERWISE MEETS THE REQUIREMENTS OF EITHER THE OPENING PARAGRAPH AND
10 PARAGRAPH ONE OF THIS SUBSECTION, OR THE OPENING PARAGRAPH OF PARAGRAPH
11 THREE AND ITEMS (I), (IV), (V) AND (VI) OF PARAGRAPH THREE OF THIS
12 SUBSECTION, IN AN AMOUNT NOT EXCEEDING THE LIABILITIES CARRIED BY THE
13 CEDING INSURER FOR AMOUNTS WITHHELD UNDER A REINSURANCE TREATY WITH SUCH
14 REINSURER OR AMOUNTS DEPOSITED BY SUCH REINSURER AS SECURITY FOR THE
15 PAYMENT OF OBLIGATIONS UNDER THE TREATY IF SUCH FUNDS OR DEPOSIT ARE
16 HELD SUBJECT TO WITHDRAWAL BY, AND UNDER THE CONTROL OF, THE CEDING
17 INSURER.

18 (B) IN DETERMINING WHETHER THE INSURER MEET THE AGGREGATE RISK LIMITA-
19 TIONS, IN ADDITION TO CREDIT FOR OTHER TYPES OF QUALIFYING REINSURANCE,
20 THE INSURER'S AGGREGATE RISK MAY BE REDUCED TO THE EXTENT OF THE LIMIT
21 FOR AGGREGATE EXCESS REINSURANCE, BUT IN NO EVENT IN AN AMOUNT GREATER
22 THAN THE AMOUNT OF THE AGGREGATE RISKS WHICH WILL BECOME DUE DURING THE
23 UNEXPIRED TERM OF SUCH REINSURANCE AGREEMENT IN EXCESS OF THE INSURER'S
24 RETENTION PURSUANT TO SUCH REINSURANCE AGREEMENT.

25 S 6907. APPLICABILITY OF OTHER LAWS. AN INSURER ISSUING POLICIES OF
26 CREDIT DEFAULT INSURANCE SHALL BE SUBJECT TO ALL OF THE PROVISIONS OF
27 THIS CHAPTER APPLICABLE TO PROPERTY/CASUALTY INSURERS TO THE EXTENT THAT
28 SUCH PROVISIONS ARE NOT INCONSISTENT WITH THE PROVISIONS OF THIS ARTI-
29 CLE.

30 S 6908. RELATIONSHIP TO SECURITY FUND. NO INSURER OR AGENT OF AN
31 INSURER MAY DELIVER A POLICY OF CREDIT DEFAULT INSURANCE UNLESS SUCH
32 POLICY AND ANY PROSPECTUS DELIVERED ON OR AFTER THE EFFECTIVE DATE OF
33 THIS ARTICLE WITH RESPECT TO THE INSURED OBLIGATIONS CLEARLY DISCLOSES
34 THAT THE POLICY IS NOT COVERED BY THE PROPERTY/CASUALTY INSURANCE SECU-
35 RITY FUND SPECIFIED IN ARTICLE SEVENTY-SIX OF THIS CHAPTER.

36 S 6909. PENALTIES. (A) IT IS A VIOLATION OF THIS ARTICLE FOR ANY CRED-
37 IT DEFAULT INSURANCE CORPORATION, AFFILIATE, OR ANY OTHER PARTY RELATED
38 TO THE BUSINESS OF CREDIT DEFAULT INSURANCE TO SELL CREDIT DEFAULT
39 INSURANCE NOT PERMISSIBLE UNDER SECTION SIX THOUSAND NINE HUNDRED FOUR
40 OF THIS ARTICLE.

41 (B) FOR CRIMINAL LIABILITY PURPOSES, EVERY VIOLATION OF ANY PROVISION
42 OF THIS ARTICLE SHALL, UNLESS THE SAME CONSTITUTES A FELONY, BE A MISDE-
43 MEANOR.

44 (C) THE SUPERINTENDENT SHALL BE EMPOWERED TO LEVY A CIVIL PENALTY NOT
45 EXCEEDING ONE MILLION DOLLARS AND THE AMOUNT OF THE CLAIM FOR EACH
46 VIOLATION UPON ANY PERSON WHO IS FOUND TO HAVE VIOLATED ANY PROVISION OF
47 THIS ARTICLE.

48 (D) THE LICENSE OF A PERSON LICENSED UNDER THIS ARTICLE THAT SELLS
49 CREDIT DEFAULT INSURANCE NOT PERMISSIBLE UNDER SECTION SIX THOUSAND NINE
50 HUNDRED FOUR OF THIS ARTICLE SHALL BE REVOKED FOR A PERIOD OF AT LEAST
51 TWO YEARS.

52 S 6910. TRANSITION PROVISION. (A)(1) A COMPANY ORGANIZED FOR THE
53 PURPOSE OF TRANSACTING FINANCIAL GUARANTY INSURANCE IN ITS STATE OF
54 DOMICILE OR ANY OTHER STATE ON THE EFFECTIVE DATE OF THIS SECTION AND
55 LICENSED AND OPERATING IN THIS STATE AS A PROVIDER OF SURETY INSURANCE
56 ON THE EFFECTIVE DATE OF THIS SECTION, UPON APPLICATION BY SUCH COMPANY

1 WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS SECTION, SHALL BE ISSUED A
2 LICENSE PURSUANT TO SECTION SIX THOUSAND NINE HUNDRED TWO OF THIS ARTI-
3 CLE, BEFORE AND AFTER SUCH LICENSE IS ISSUED, MAY ENGAGE IN THE BUSINESS
4 OF CREDIT DEFAULT INSURANCE, PROVIDED THAT SUCH COMPANY MEETS ALL
5 REQUIREMENTS OF THIS ARTICLE, EXCEPT THE REQUIREMENTS DESCRIBED IN
6 SUBPARAGRAPH TWO OF THIS PARAGRAPH, WITHIN TWO YEARS OF THE EFFECTIVE
7 DATE OF THIS SECTION TO TRANSACT BUSINESS AS A CREDIT DEFAULT INSURANCE
8 CORPORATION IN THIS STATE.

9 (2) A COMPANY DESCRIBED IN PARAGRAPH ONE OF THIS SUBSECTION MUST MEET
10 ALL OF THE REQUIREMENTS OF THIS ARTICLE, WITH THE FOLLOWING EXCEPTIONS:

11 (A) SUCH COMPANY SHALL NOT BE DEEMED TO BE IN VIOLATION OF ANY
12 PROVISION OF THIS ARTICLE WITH RESPECT TO CREDIT DEFAULT INSURANCE POLI-
13 CIES OUTSTANDING PRIOR TO THE EFFECTIVE DATE OF THIS SECTION, IF THE
14 INSURER WAS IN COMPLIANCE WITH THE APPLICABLE PROVISIONS RELATING TO
15 FINANCIAL GUARANTY INSURANCE IN ITS STATE OF DOMICILE AT THE TIME THAT
16 THE CREDIT DEFAULT INSURANCE POLICY WAS ISSUED, PROVIDED THAT THIS
17 SECTION SHALL APPLY TO SUCH POLICIES THAT ARE AMENDED OR REPLACED ON OR
18 AFTER THE EFFECTIVE DATE OF THIS SECTION IF SUCH AMENDMENT OF THE
19 ORIGINAL POLICY EXTENDS THE TERM OR THE REPLACEMENT POLICY PROVIDES A
20 NEW TERM THAT EXTENDS BEYOND THE TERM OF THE ORIGINAL POLICY IN EFFECT
21 ON THE EFFECTIVE DATE OF THIS SECTION, UNLESS SUCH AMENDMENT OR REPLACE-
22 MENT COMPLIES WITH SUBPARAGRAPH (B) OF THIS PARAGRAPH;

23 (B) SUCH COMPANY SHALL NOT BE DEEMED TO BE IN VIOLATION OF ANY
24 PROVISION OF THIS ARTICLE WITH RESPECT TO ANY AMENDMENT OR REPLACEMENT
25 OF A CREDIT DEFAULT INSURANCE POLICY ISSUED PRIOR TO THE EFFECTIVE DATE
26 OF THIS SECTION, PROVIDED THAT:

27 (I) THE AMENDMENT OR REPLACEMENT OF THE ORIGINAL POLICY IS EXECUTED IN
28 GOOD FAITH TO MITIGATE LOSSES OR REDUCE EXPOSURE TO FUTURE LOSSES UNDER
29 THE ORIGINAL POLICY; AND

30 (II) THE COMPANY PROVIDES NOTICE TO THE SUPERINTENDENT OF SUCH AMEND-
31 MENT OR REPLACEMENT WITHIN TEN BUSINESS DAYS OF THE AMENDMENT OR
32 REPLACEMENT;

33 (C) IF TEN YEARS HAVE ELAPSED FROM THE EFFECTIVE DATE OF THIS SECTION
34 THE FOLLOWING REQUIREMENTS OF THIS SHALL NOT APPLY TO SUCH COMPANY:

35 (I) SUBSECTION (B) OF SECTION SIX THOUSAND NINE HUNDRED TWO OF THIS
36 ARTICLE REGARDING PAID-IN CAPITAL AND SURPLUS REQUIREMENTS AND MINIMUM
37 SURPLUS TO POLICYHOLDERS;

38 (II) SUBSECTIONS (C), (D) AND (E) OF SECTION SIX THOUSAND NINE HUNDRED
39 FOUR OF THIS ARTICLE REGARDING AGGREGATE AND SINGLE RISK LIMITS.

40 (3) THE SUPERINTENDENT MAY:

41 (A) EXTEND THE TRANSITION TIME PERMITTED IN SUBPARAGRAPH (B) OF PARA-
42 GRAPH TWO OF SUBSECTION (A) OF THIS SECTION AN ADDITIONAL SIX MONTHS IF
43 HE OR SHE DETERMINES THAT IT WOULD NOT POSE A HAZARD TO THE INSURER, ITS
44 POLICY HOLDERS OR TO THE PUBLIC AND THERE ARE UNUSUAL OR UNIQUE CIRCUM-
45 STANCES THAT JUSTIFY THE EXTENSION;

46 (B) DECREASE THE TRANSITION TIME PERMITTED IN SUBPARAGRAPH (B) OF
47 PARAGRAPH TWO OF SUBSECTION (A) OF THIS SECTION IF HE OR SHE DETERMINES,
48 AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD, THAT PERMITTING A COMPANY
49 TO CONTINUE TRANSACTING CREDIT DEFAULT INSURANCE POSES A HAZARD TO THE
50 INSURER, ITS POLICYHOLDERS, OR THE PUBLIC;

51 (4) A COMPANY THAT DOES NOT COMPLY WITH PARAGRAPHS ONE AND TWO OF THIS
52 SUBSECTION SHALL CEASE WRITING ANY NEW CREDIT DEFAULT INSURANCE.

53 (B) A COMPANY NOT LICENSED AS AN INSURANCE COMPANY IN THIS STATE
54 PURSUANT TO PARAGRAPHS SIXTEEN, SEVENTEEN OR TWENTY-TWO OF SUBSECTION
55 (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THIS CHAPTER, ON THE
56 EFFECTIVE DATE OF THIS SECTION MAY NOT ENGAGE IN THE BUSINESS OF CREDIT

1 DEFAULT INSURANCE UNTIL SUCH DATE AS THE COMPANY SHALL HAVE RECEIVED A
2 LICENSE FROM THIS STATE PURSUANT TO SECTION SIX THOUSAND NINE HUNDRED
3 TWO OF THIS ARTICLE.
4 S 2. This act shall take effect immediately.