S T A T E O F N E W Y O R K

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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 Article 69 of the insurance law is REPEALED and a new arti-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.

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

(2) CREDIT DEFAULT INSURANCE INCLUDES OTHER EVENTS WHICH THE SUPERINTENDENT DETERMINES ARE SUBSTANTIALLY SIMILAR TO ANY OF THE EVENTS DESCRIBED IN PARAGRAPH ONE OF THIS SUBSECTION.

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

(A) INSURANCE OF ANY LOSS RESULTING FROM ANY EVENT DESCRIBED IN PARAGRAPH ONE OF THIS SUBSECTION IF THE LOSS IS PAYABLE ONLY UPON THE OCCURRENCE OF ANY OF THE FOLLOWING, AS SPECIFIED IN A SURETY BOND, INSURANCE POLICY OR INDEMNITY CONTRACT:

(I) A FORTUITOUS PHYSICAL EVENT;

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

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

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

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

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

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

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

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

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

(I) IN WHICH A LIFE INSURER OR AN INSURER SUBJECT TO ARTICLE FORTY-THREE OF THIS CHAPTER GUARANTIES ITS OBLIGATIONS OR INDEBTEDNESS OR THE OBLIGATIONS OR INDEBTEDNESS OF A SUBSIDIARY (AS DEFINED IN PARAGRAPH FORTY OF SUBSECTION (A) OF SECTION ONE HUNDRED SEVEN OF THIS CHAPTER), OTHER THAN A FINANCIAL GUARANTY INSURANCE CORPORATION, PROVIDED THAT:

(I) TO THE EXTENT THAT ANY SUCH OBLIGATIONS OR INDEBTEDNESS ARE BACKED BY SPECIFIC ASSETS, SUCH ASSETS MUST AT ALL TIMES BE OWNED BY THE INSURER OR THE SUBSIDIARY; AND

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

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

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

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

(II) SOLD TO AN INDEPENDENT THIRD PARTY; OR

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

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

(J) GUARANTEES OF INSURANCE CONTRACTS, EXCEPT FOR:

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

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

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

(II) THE CREDIT DEFAULT INSURANCE POLICIES DO NOT GUARANTY DEATH BENEFITS PROVIDED BY SUCH CONTRACTS;

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

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

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

(K) ANY OTHER FORM OF INSURANCE COVERING RISKS WHICH THE SUPERINTENDENT DETERMINES TO BE SUBSTANTIALLY SIMILAR TO ANY OF THE FOREGOING.

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

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

(D) "AGGREGATE NET LIABILITY" MEANS THE AGGREGATE AMOUNT OF INSURED UNPAID PRINCIPAL, INTEREST AND OTHER MONETARY PAYMENTS, IF ANY, OF GUARANTIED OBLIGATIONS INSURED OR ASSUMED, LESS REINSURANCE CEDED AND LESS COLLATERAL.

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

(1) THE ISSUER IS A SPECIAL PURPOSE CORPORATION, TRUST OR OTHER ENTITY, OR (PROVIDED THAT THE SECURITIES OR OTHER FINANCIAL OBLIGATIONS CONSTITUTE AN INSURABLE RISK) IS A BANK, TRUST COMPANY OR OTHER FINANCIAL INSTITUTION, DEPOSITS IN WHICH ARE INSURED BY THE BANK INSURANCE FUND OR THE SAVINGS INSURANCE FUND (OR ANY SUCCESSOR THERETO); AND

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

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

(B) SUCH POOL OF ASSETS BACKS THE SECURITIES OR OTHER FINANCIAL OBLIGATIONS ISSUED; AND

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

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

$$\text{AVERAGE ANNUAL DEBT SERVICE} = \frac{\text{TOTAL DEBT SERVICE X NO. OF BONDS}}{\text{BOND YEARS}}$$

TOTAL DEBT SERVICE= INSURED UNPAID PRINCIPAL + INTEREST

$$\text{NUMBER OF BONDS} = \frac{\text{TOTAL INSURED PRINCIPAL}}{\$1{,}000}$$

BOND YEARS= NUMBER OF BONDS X TERM IN YEARS

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

(G) "COLLATERAL" MEANS:

(1) CASH;

(2) THE CASH FLOW FROM SPECIFIC OBLIGATIONS WHICH ARE NOT CALLABLE AND SCHEDULED TO BE RECEIVED BASED ON EXPECTED PREPAYMENT SPEED ON OR PRIOR TO THE DATE OF SCHEDULED DEBT SERVICE (INCLUDING SCHEDULED REDEMPTIONS OR PREPAYMENTS) ON THE INSURED OBLIGATION PROVIDED THAT (A) SUCH SPECIFIC OBLIGATIONS ARE DIRECTLY PAYABLE BY, GUARANTEED BY OR BACKED BY THE FULL FAITH AND CREDIT OF THE UNITED STATES GOVERNMENT, (B) IN THE CASE OF INSURED OBLIGATIONS DENOMINATED OR PAYABLE IN FOREIGN CURRENCY AS PERMITTED UNDER PARAGRAPH FOUR OF SUBSECTION (B) OF SECTION SIX THOUSAND NINE HUNDRED FOUR OF THIS ARTICLE, SUCH SPECIFIC OBLIGATIONS ARE DIRECTLY PAYABLE BY, GUARANTEED BY OR BACKED BY THE FULL FAITH AND CREDIT OF SUCH FOREIGN GOVERNMENT OR THE CENTRAL BANK THEREOF, OR (C) SUCH SPECIFIC OBLIGATIONS ARE INSURED BY THE SAME INSURER THAT INSURES THE OBLIGATIONS BEING COLLATERALIZED, AND THE CASH FLOWS FROM SUCH SPECIFIC

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

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

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

(A) IS IRREVOCABLE;

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

(C) IS ISSUED, PRESENTABLE AND PAYABLE EITHER:

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

(II) AT AN OFFICE OF THE LETTER OF CREDIT ISSUER LOCATED IN THE JURISDICTION IN WHICH THE TRUSTEE OR PAYING AGENT FOR THE INSURED OBLIGATION IS LOCATED

(D) CONTAINS A STATEMENT THAT EITHER:

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

(II) IDENTIFIES THE TRUSTEE OR THE PAYING AGENT FOR THE INSURED OBLIGATION AS THE BENEFICIARY;

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

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

(G) EITHER:

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

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

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

(I) IS ISSUED BY A BANK, TRUST COMPANY, OR SAVINGS AND LOAN ASSOCIATION THAT:

(I) IS ORGANIZED AND EXISTING UNDER THE LAWS OF THE UNITED STATES OR ANY STATE THEREOF OR, IN THE CASE OF A NON-DOMESTIC FINANCIAL INSTITUTION, HAS A BRANCH OR AGENCY OFFICE LICENSED UNDER THE LAWS OF THE UNITED STATES OR ANY STATE THEREOF AND IS DOMICILED IN A MEMBER COUNTRY OF THE ORGANIZATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT HAVING A SOVEREIGN RATING IN ONE OF THE TOP TWO GENERIC LETTERED RATING CLASSIFICATIONS BY A SECURITIES RATING AGENCY ACCEPTABLE TO THE SUPERINTENDENT;

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

(III) IS NOT A PARENT, SUBSIDIARY OR AFFILIATE OF THE TRUSTEE OR PAYING AGENT, IF ANY, WITH RESPECT TO THE INSURED OBLIGATION IF SUCH TRUSTEE OF PAYING AGENT IS THE NAMED BENEFICIARY OF THE LETTER OF CREDIT.

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

(I) "CONTINGENCY RESERVE" MEANS AN ADDITIONAL LIABILITY RESERVE ESTABLISHED TO PROTECT POLICY HOLDERS AGAINST THE EFFECTS OF ADVERSE ECONOMIC DEVELOPMENTS OR CYCLES OR OTHER UNFORESEEN CIRCUMSTANCES.

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

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

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

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

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

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

(N) "INVESTMENT GRADE" MEANS THAT:

(1) THE OBLIGATION OR PARITY OBLIGATION OF THE SAME ISSUER HAS BEEN DETERMINED TO BE IN ONE OF THE TOP FOUR GENERIC LETTERED RATING CLASSIFICATIONS BY A SECURITIES RATING AGENCY ACCEPTABLE TO THE SUPERINTENDENT;

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

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

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

(P) "MUNICIPAL OBLIGATION BOND" MEANS ANY SECURITY OR OTHER INSTRUMENT, INCLUDING A LEASE PAYABLE OR GUARANTEED BY THE UNITED STATES OR ANOTHER NATIONAL GOVERNMENT THAT QUALIFIES AS A GOVERNMENTAL UNIT OR ANY AGENCY, DEPARTMENT OR INSTRUMENTALITY THEREOF, OR BY A STATE OR AN EQUIVALENT POLITICAL SUBDIVISION OF ANOTHER NATIONAL GOVERNMENT THAT QUALIFIES AS A GOVERNMENTAL UNIT, BUT NOT A LEASE OF ANY OTHER GOVERNMENTAL UNIT, UNDER WHICH A PAYMENT OBLIGATION IS CREATED, ISSUED BY OR ON BEHALF OF OR PAYABLE OR GUARANTEED BY A GOVERNMENTAL UNIT OR ISSUED BY A SPECIAL PURPOSE CORPORATION, SPECIAL PURPOSE TRUST OR OTHER SPECIAL PURPOSE LEGAL ENTITY TO FINANCE A PROJECT SERVING A SUBSTANTIAL PUBLIC PURPOSE, AND WHICH IS:

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

(B) PAYABLE OR GUARANTEED BY THE UNITED STATES OR ANOTHER NATIONAL GOVERNMENT THAT QUALIFIES AS A GOVERNMENTAL UNIT, OR ANY AGENCY, DEPARTMENT OR INSTRUMENTALITY THEREOF, OR BY A HOUSING AGENCY OF A STATE OR AN EQUIVALENT SUBDIVISION OF ANOTHER NATIONAL GOVERNMENT THAT QUALIFIES AS A GOVERNMENTAL UNIT;

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

(D) WITH RESPECT TO LEASE OBLIGATIONS, PAYABLE FROM FUTURE APPROPRIATIONS; AND

(2) PROVIDED THAT, IN THE CASE OF OBLIGATIONS OF A SPECIAL PURPOSE CORPORATION, SPECIAL PURPOSE TRUST OR OTHER SPECIAL PURPOSE LEGAL ENTITY:

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

(B) SUCH OBLIGATIONS ARE PAYABLE FROM SOURCES ENUMERATED IN SUBPARAGRAPH (A), (B), (C) OR (D) OF PARAGRAPH ONE OF THIS SUBSECTION; AND

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

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

(R) "SUPERINTENDENT" MEANS THE SUPERINTENDENT, COMMISSIONER, OR DIRECTOR OF THE DEPARTMENT OF INSURANCE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EST QUALITY DESIGNATION OF THE SECURITIES VALUATION OFFICE OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS. BEFORE INVESTING ANY PART OF THE REQUIRED MINIMUM CAPITAL OR SURPLUS IN DIRECT GOVERNMENT OBLIGATIONS OF ANY OTHER STATE OF THE UNITED STATES OR OF ANY COUNTY, DISTRICT OR MUNICIPALITY THEREOF, SUCH CREDIT DEFAULT INSURANCE COMPANY SHALL HAVE INVESTED AT LEAST TEN PERCENT OF SUCH REQUIRED MINIMUM IN GOVERNMENT OBLIGATIONS OF NEW YORK STATE OR OF ANY COUNTY, DISTRICT OR MUNICIPALITY THEREOF. ONLY FOR PURPOSES OF MEETING THE REQUIRED INVESTMENT IN GOVERNMENT OBLIGATIONS OF NEW YORK STATE, THE INSURER MAY COUNT INVESTMENTS IN ANY GOVERNMENT OBLIGATION OF NEW YORK STATE, WHETHER DIRECT OR OTHERWISE.

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

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

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

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

(B) THE TOTAL CONTINGENCY RESERVE REQUIRED SHALL BE THE GREATER OF FIFTY PERCENT OF PREMIUMS WRITTEN FOR EACH SUCH CATEGORY OR THE FOLLOWING AMOUNT PRESCRIBED FOR EACH SUCH CATEGORY:

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

(II) SPECIAL REVENUE BONDS, AND OBLIGATIONS DEMONSTRATED TO THE SATISFACTION OF THE SUPERINTENDENT TO BE THE FUNCTIONAL EQUIVALENT THEREOF, 0.85 PERCENT OF PRINCIPAL GUARANTIED;

(III) INVESTMENT GRADE INDUSTRIAL DEVELOPMENT BONDS, SECURED BY COLLATERAL OR HAVING A TERM OF SEVEN YEARS OR LESS, AND UTILITY FIRST MORTGAGE OBLIGATIONS, 1.0 PERCENT OF PRINCIPAL GUARANTIED;

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

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

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

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

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

(B) THE TOTAL CONTINGENCY RESERVE REQUIRED SHALL BE THE GREATER OF FIFTY PERCENT OF PREMIUMS WRITTEN FOR EACH SUCH CATEGORY OR THE FOLLOWING AMOUNT PRESCRIBED FOR EACH SUCH CATEGORY:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ANY SUCCESSOR PROVISION), ONLY TO THE EXTENT OF THE TAX SAVINGS RESULTING FROM THE DEDUCTION FOR FEDERAL INCOME TAX PURPOSES OF A SUM EQUAL TO THE ANNUAL CONTRIBUTIONS TO THE CONTINGENCY RESERVE. THE CONTINGENCY RESERVE SHALL OTHERWISE BE INVESTED ONLY IN CLASSES OF SECURITIES OR TYPES OF INVESTMENTS SPECIFIED IN PARAGRAPHS ONE, TWO AND THREE OF SUBSECTION (B) OF SECTION ONE THOUSAND FOUR HUNDRED TWO OF THIS CHAPTER AND PARAGRAPHS ONE, TWO AND THREE OF SUBSECTION (A) OF SECTION ONE THOUSAND FOUR HUNDRED FOUR OF THIS CHAPTER.

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

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

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

(D) COLLATERAL MUST BE DEPOSITED WITH THE INSURER; HELD IN TRUST BY A TRUSTEE OR CUSTODIAN ACCEPTABLE TO THE SUPERINTENDENT FOR THE BENEFIT OF THE INSURER; OR HELD IN TRUST PURSUANT TO THE BOND INDENTURE OR OTHER TRUST ARRANGEMENT, FOR THE BENEFIT OF HOLDERS OF INSURED OBLIGATIONS IN THE FORM OF FUNDS FOR THE PAYMENT OF INSURED OBLIGATIONS, SINKING FUNDS OR OTHER RESERVES WHICH MAY BE USED FOR THE PAYMENT OF INSURED OBLIGATIONS AND TRUSTEE AND OTHER ADMINISTRATIVE FEES ON A FIRST PRIORITY BASIS ESTABLISHED AND CONTINUALLY MAINTAINED PURSUANT TO THE BOND INDENTURE OR OTHER TRUST ARRANGEMENT BY A TRUSTEE ACCEPTABLE TO THE SUPERINTENDENT. THE SUPERINTENDENT MAY PROMULGATE REGULATIONS TO LIMIT THE AMOUNT OF COLLATERAL PROVIDED BY OBLIGATIONS, LETTERS OF CREDIT OR CREDIT DEFAULT INSURANCE CONTRACTS OR TO LIMIT THE AMOUNT OF COLLATERAL PROVIDED BY ANY SINGLE ISSUER, BANK OR COUNTERPARTY AS PROVIDED FOR IN THIS SUBSECTION.

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

(B) PERMISSIBLE CREDIT DEFAULT INSURANCE.

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

INSTRUMENTS, OR OTHER MONETARY OBLIGATIONS, ONLY IN THE FOLLOWING CATEGORIES:

(A) MUNICIPAL OBLIGATION BONDS;

(B) SPECIAL REVENUE BONDS;

(C) INDUSTRIAL DEVELOPMENT BONDS;

(D) INVESTMENT GRADE OBLIGATIONS OF THE GOVERNMENT OF A COUNTRY, MUNICIPALITY, OR A POLITICAL SUBDIVISION OF ANY OF THE FOREGOING, OR ANY PUBLIC AGENCY OR INSTRUMENTALITY THEREOF IF THAT ENTITY DOES NOT MEET THE DEFINITION OF A GOVERNMENTAL UNIT;

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

(F) PARTNERSHIP OBLIGATIONS;

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

(I) WITH RESPECT TO MORTGAGE-BACKED SECURITIES SECURED BY FIRST MORTGAGES ON REAL PROPERTY WHICH ARE INSURABLE BY A MORTGAGE GUARANTY INSURER AUTHORIZED UNDER PARAGRAPH TWENTY-THREE OF SUBDIVISION (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THIS CHAPTER:

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

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

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

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

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

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

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

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

3. THE POOL CONSISTS OF ASSET-BACKED SECURITIES THAT ARE ISSUED OR GUARANTEED BY A GOVERNMENTAL UNIT, FEDERAL NATIONAL MORTGAGE ASSOCIATION, FEDERAL HOME LOAN MORTGAGE CORPORATION, FEDERAL HOME LOAN BANK, THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION, OR THE FEDERAL FARM CREDIT SYSTEM BANKS AS A CONSOLIDATED DEBT OBLIGATION OR A SYSTEM WIDE DEBT OBLIGATION TO THE EXTENT THAT THE OBLIGATIONS ARE COVERED BY THE FARM CREDIT INSURANCE FUND;

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

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

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

(I) CONSUMER DEBT OBLIGATIONS;

(J) UTILITY FIRST MORTGAGE OBLIGATIONS; AND

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

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

(3) A CORPORATION MAY INSURE THE TIMELY PAYMENT OF MONETARY OBLIGATIONS IN ANY CATEGORY DESIGNATED IN THIS SUBSECTION NOTWITHSTANDING THAT SUCH OBLIGATION MAY BE INSURED BY AN INSURANCE POLICY ISSUED BY ANOTHER INSURER. IN THE EVENT THAT ANY OBLIGATION IS INSURED BY MORE THAN ONE CREDIT DEFAULT INSURANCE POLICY, THEN EACH SUCH INSURANCE POLICY MAY BY ITS TERMS SPECIFY ITS PRIORITY OF PAYMENT IN THE EVENT OF A DEFAULT UNDER THE OBLIGATION INSURED OR ANY OTHER INSURANCE POLICY; PROVIDED THAT AN INSURER SHALL BE ENTITLED TO TAKE INTO ACCOUNT PAYMENT UNDER ANOTHER POLICY INSURING SUCH OBLIGATION FOR PURPOSES OF ESTABLISHING AND MAINTAINING LOSS RESERVES ONLY TO THE EXTENT THAT THE POLICY ISSUED BY SUCH INSURER PROVIDES FOR PAYMENT ONLY IN THE EVENT OF PAYMENT DEFAULT UNDER BOTH SUCH OBLIGATION AND THE OTHER POLICY.

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

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

(I) WHOSE SOVEREIGN RATING IS INVESTMENT GRADE OR

(II) AS SHALL NOT OTHERWISE BE DISAPPROVED BY THE SUPERINTENDENT WITHIN THIRTY DAYS FOLLOWING RECEIPT OF WRITTEN NOTIFICATION. THE SUPERINTENDENT SHALL NOT DISAPPROVE SUCH NOTIFICATION UPON DEMONSTRATION THAT THERE IS NO UNDUE RISK ASSOCIATED WITH INSURING THE TIMELY PAYMENT OF SUCH INSTRUMENTS OR OBLIGATIONS. IN MAKING SUCH A DETERMINATION THE SUPERINTENDENT SHALL TAKE INTO CONSIDERATION THE CORPORATION'S OUTSTANDING LIABILITIES ON NON-INVESTMENT GRADE INSTRUMENTS AND OBLIGATIONS IN RELATION TO ITS OUTSTANDING LIABILITIES ON ALL INSTRUMENTS AND OBLIGATIONS AND IN RELATION TO THE AMOUNT OF ITS SURPLUS TO POLICYHOLDERS.

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

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

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

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

(1) (A) 0.3333 PERCENT OR 1/300TH OF THE AGGREGATE NET LIABILITY UNDER CREDIT DEFAULT INSURANCE IN WHICH THE UNDERLYING OBLIGATIONS ARE MUNICIPAL BONDS INCLUDING OBLIGATIONS DEMONSTRATED TO THE SATISFACTION OF THE SUPERINTENDENT TO BE THE FUNCTIONAL EQUIVALENT THEREOF AND INVESTMENT GRADE UTILITY FIRST MORTGAGE OBLIGATIONS; PLUS

(B) 0.666 PERCENT OR 1/150TH OF THE AGGREGATE NET LIABILITY UNDER CREDIT DEFAULT INSURANCE IN WHICH THE UNDERLYING OBLIGATIONS ARE INVESTMENT GRADE ASSET-BACKED SECURITIES; PLUS

(C) 1.0 PERCENT OR 1/100TH OF THE AGGREGATE NET LIABILITY UNDER CREDIT DEFAULT INSURANCE IN WHICH THE UNDERLYING OBLIGATIONS ARE SECURED BY COLLATERAL OR HAVING A TERMS OF SEVEN YEARS OR LESS, OF:

(I) INVESTMENT GRADE INDUSTRIAL DEVELOPMENT BONDS,

(II) OTHER INVESTMENT GRADE OBLIGATIONS; PLUS

(D) 1.5 PERCENT OR 1/66.67TH OF THE AGGREGATE NET LIABILITY UNDER CREDIT DEFAULT INSURANCE IN WHICH THE UNDERLYING OBLIGATIONS ARE INVESTMENT GRADE OBLIGATIONS; PLUS

(E) 2.0 PERCENT OR 1/50TH OF THE AGGREGATE NET LIABILITY UNDER CREDIT DEFAULT INSURANCE IN WHICH THE UNDERLYING OBLIGATIONS ARE:

(I) NON-INVESTMENT GRADE CONSUMER DEBT OBLIGATIONS, AND

(II) NON-INVESTMENT GRADE ASSET-BACKED SECURITIES; PLUS

(F) 2.5 PERCENT OR 1/40TH OF THE AGGREGATE NET LIABILITY UNDER CREDIT DEFAULT INSURANCE IN WHICH THE UNDERLYING OBLIGATIONS ARE NON-INVESTMENT GRADE OBLIGATIONS SECURED BY FIRST MORTGAGES ON COMMERCIAL REAL ESTATE AND HAVING LOAN-TO-VALUE RATIOS OF EIGHTY PERCENT OR LESS; PLUS

(G) 4.0 PERCENT OR 1/25TH OF THE AGGREGATE NET LIABILITY UNDER CREDIT DEFAULT INSURANCE IN WHICH THE UNDERLYING OBLIGATIONS ARE OTHER NON-INVESTMENT GRADE OBLIGATIONS; AND

(H) IF THE AMOUNT OF COLLATERAL REQUIRED BY SUBPARAGRAPH (III) OF THIS PARAGRAPH IS NO LONGER MAINTAINED, THAT PROPORTION OF THE OBLIGATION INSURED WHICH IS NOT SO COLLATERALIZED SHALL BE SUBJECT TO THE AGGREGATE LIMITS SPECIFIED IN SUBPARAGRAPH (IV) OF THIS PARAGRAPH; AND

(2) SURPLUS TO POLICYHOLDERS DETERMINED BY THE SUPERINTENDENT TO BE ADEQUATE TO SUPPORT THE WRITING OF RESIDUAL VALUE INSURANCE, SURETY INSURANCE AND CREDIT INSURANCE, IF THE CORPORATION HAS ELECTED TO TRANSACT SUCH KINDS OF INSURANCE PURSUANT TO SUBSECTION (A) OF SECTION SIX THOUSAND NINE HUNDRED TWO OF THIS ARTICLE.

(D) SINGLE RISK LIMITS. A CREDIT DEFAULT INSURANCE CORPORATION SHALL LIMIT ITS EXPOSURE TO LOSS ON ANY ONE RISK INSURED BY POLICIES PROVIDING CREDIT DEFAULT INSURANCE, NET OF COLLATERAL AND REINSURANCE, AS FOLLOWS:

(1) FOR MUNICIPAL OBLIGATION BONDS, SPECIAL REVENUE BONDS, AND OBLIGATIONS DEMONSTRATED TO THE SATISFACTION OF THE SUPERINTENDENT TO BE THE FUNCTIONAL EQUIVALENT THEREOF:

(A) THE INSURED AVERAGE ANNUAL DEBT SERVICE WITH RESPECT TO A SINGLE ENTITY AND BACKED BY A SINGLE REVENUE SOURCE SHALL NOT EXCEED TEN PERCENT OF THE AGGREGATE OF THE INSURER'S SURPLUS TO POLICYHOLDERS AND CONTINGENCY RESERVE;

(B) THE INSURED UNPAID PRINCIPAL ISSUED BY A SINGLE ENTITY AND BACKED BY A SINGLE REVENUE SOURCE SHALL NOT EXCEED SEVENTY-FIVE PERCENT OF THE AGGREGATE OF THE INSURER'S SURPLUS TO POLICYHOLDERS AND CONTINGENCY RESERVE;

(2) FOR EACH ISSUE OF ASSET-BACKED SECURITIES ISSUED BY A SINGLE ENTITY AND FOR EACH POOL OF CONSUMER DEBT OBLIGATIONS, THE LESSER OF:

(A) INSURED AVERAGE ANNUAL DEBT SERVICE; OR

(B) INSURED UNPAID PRINCIPAL (REDUCED BY THE EXTENT TO WHICH THE UNPAID PRINCIPAL OF THE SUPPORTING ASSETS AND, PROVIDED THE INSURED RISK IS INVESTMENT GRADE, EXCESS SPREAD EXCEED THE INSURED UNPAID PRINCIPAL)

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

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

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

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

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

2. THE INSURED AVERAGE ANNUAL DEBT SERVICE AND INSURED UNPAID PRINCIPAL RESPECTIVELY IF THE SCHEDULED PRINCIPAL OF AND INTEREST ON ALL SENIOR SECURITIES OF THE ISSUER WERE INCLUDED IN THE AMOUNT INSURED BY THE INSURER FOR PURPOSES OF CALCULATING INSURED AVERAGE ANNUAL DEBT SERVICE AND INSURED UNPAID PRINCIPAL.

(3) FOR OBLIGATIONS ISSUED BY A SINGLE ENTITY AND SECURED BY COMMERCIAL REAL ESTATE, AND NOT MEETING THE DEFINITION OF ASSET-BACKED SECURITIES, THE INSURED UNPAID PRINCIPAL LESS FIFTY PERCENT OF THE APPRAISED VALUE OF THE UNDERLYING REAL ESTATE SHALL NOT EXCEED TEN PERCENT OF THE AGGREGATE OF THE INSURER'S SURPLUS TO POLICYHOLDERS AND CONTINGENCY RESERVE;

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

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

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

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

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

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

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

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

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

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

(E) THE SUPERINTENDENT BY REGULATION MAY PRESCRIBE MINIMUM POLICY PROVISIONS DETERMINED BY THE SUPERINTENDENT TO BE NECESSARY OR APPROPRIATE TO PROTECT CREDIT DEFAULT INSURERS, POLICYHOLDERS, CLAIMANTS, OBLIGEES OR INDEMNITIES OR THE PEOPLE OF THIS STATE.

(F) RATES SHALL NOT BE EXCESSIVE, INADEQUATE, UNFAIRLY DISCRIMINATORY, DESTRUCTIVE OF COMPETITION, DETRIMENTAL TO THE SOLVENCY OF THE INSURER, OR OTHERWISE UNREASONABLE. IN DETERMINING WHETHER RATES COMPLY WITH THE FOREGOING STANDARDS, THE SUPERINTENDENT SHALL INCLUDE ALL INCOME EARNED BY SUCH INSURER. CRITERIA AND GUIDELINES UTILIZED BY INSURERS IN ESTABLISHING RATING CATEGORIES AND RANGES OF RATES TO BE UTILIZED SHALL BE FILED WITH THE SUPERINTENDENT FOR INFORMATION PRIOR TO THEIR USE BY THE INSURER IF NOT OTHERWISE FILED PRIOR TO THE EFFECTIVE DATE OF THIS ARTICLE.

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

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

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

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

(2) WITH THE CONSENT OF THE CEDING COMPANY, IF THE REINSURANCE AGREEMENT PROVIDES FOR A CUTOFF OF THE REINSURANCE IN FORCE AT THE DATE OF TERMINATION, OR

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

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

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

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

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

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

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

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

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

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

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

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

S 6907. APPLICABILITY OF OTHER LAWS. AN INSURER ISSUING POLICIES OF CREDIT DEFAULT INSURANCE SHALL BE SUBJECT TO ALL OF THE PROVISIONS OF THIS CHAPTER APPLICABLE TO PROPERTY/CASUALTY INSURERS TO THE EXTENT THAT SUCH PROVISIONS ARE NOT INCONSISTENT WITH THE PROVISIONS OF THIS ARTICLE.

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

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

(B) FOR CRIMINAL LIABILITY PURPOSES, EVERY VIOLATION OF ANY PROVISION OF THIS ARTICLE SHALL, UNLESS THE SAME CONSTITUTES A FELONY, BE A MISDEMEANOR.

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

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

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

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

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

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

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

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

(II) THE COMPANY PROVIDES NOTICE TO THE SUPERINTENDENT OF SUCH AMENDMENT OR REPLACEMENT WITHIN TEN BUSINESS DAYS OF THE AMENDMENT OR REPLACEMENT;

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

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

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

(3) THE SUPERINTENDENT MAY:

(A) EXTEND THE TRANSITION TIME PERMITTED IN SUBPARAGRAPH (B) OF PARAGRAPH TWO OF SUBSECTION (A) OF THIS SECTION AN ADDITIONAL SIX MONTHS IF HE OR SHE DETERMINES THAT IT WOULD NOT POSE A HAZARD TO THE INSURER, ITS POLICY HOLDERS OR TO THE PUBLIC AND THERE ARE UNUSUAL OR UNIQUE CIRCUMSTANCES THAT JUSTIFY THE EXTENSION;

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

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

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

DEFAULT INSURANCE UNTIL SUCH DATE AS THE COMPANY SHALL HAVE RECEIVED A LICENSE FROM THIS STATE PURSUANT TO SECTION SIX THOUSAND NINE HUNDRED TWO OF THIS ARTICLE.

S 2. This act shall take effect immediately.