§ 1315. Trusteed assets of alien insurers. (a) Whenever a licensed alien insurer is required or permitted by this chapter to deposit assets with a trustee or trustees for the security of its policyholders and creditors in the United States, such assets shall be known as "trusteed assets". All trusteed assets shall be continuously kept within the United States and the trusteed assets of a licensed alien insurer entered through this state shall be continuously kept in this state. The deed of trust and all amendments thereto shall be authenticated in such form and manner as the superintendent may prescribe and shall not be effective unless approved by him. If he finds a deed of trust or its amendments: (i) are sufficient in form and in conformity with law, (ii) the trustee or trustees are eligible as such, and (iii) the deed of trust is adequate to protect the interests of the beneficiaries of the trust, he shall give his approval. If he finds, after reasonable notice to and hearing of the insurer, that the requisites for the approval no longer exist, he may withdraw such approval.

(b) The trustee or trustees of all trusts created after nineteen hundred thirty-nine shall be solvent banks or trust companies deemed by the superintendent suitable for such purpose.

(c) All trusts of trusteed assets existing before nineteen hundred forty shall be continued in accordance with the terms of the instruments creating them, if not inconsistent with this section. If the trustees of any trust created before nineteen hundred forty are individuals, and their number is reduced to less than three, by death, resignation or otherwise, the superintendent shall require substitution for such trustees of one or more banks or trust companies deemed by him suitable for such purpose. If the superintendent finds, after reasonable notice to and hearing of such alien insurer, that a deed of trust executed before nineteen hundred forty is inadequate to protect the interests of the beneficiaries of such trust, he shall require the execution of a new or amended deed of trust in conformity with the requirements of this section.

(d) The superintendent may from time to time approve modifications of, or variations in, any deed of trust, which in his judgment are not prejudicial to the interests of the people of this state.

(e) (1) Such deed of trust shall contain provisions which:

(A) vest legal title to trusteed assets in the trustees, and their

successors lawfully appointed, in trust for the security of all policyholders and creditors of the alien insurer within the United States;

(B) provide for substitution of a new trustee or trustees in case of a vacancy by death, resignation or otherwise, subject to approval of the superintendent;

(C) require that all trusteed assets shall be at all times maintained as a trust fund separate and distinct from all other assets; and

(D) require that the trustee or trustees shall continuously maintain a record at all times sufficient to identify the assets of such fund.

(2) Such deed of trust may provide that income, earnings, dividends or interest accumulations of the assets of such fund may be paid over to the United States manager of such alien insurer, upon his or its request.

(3) Such deed of trust shall provide, in substance, that no withdrawals of assets, other than income as above specified, shall be made or permitted by the trustee or trustees without the approval of the superintendent except to:

(A) make deposits required by law in any state for the security or benefit of all policyholders, or policyholders and creditors, of such alien insurer in the United States;

(B) substitute other assets permitted by law and at least equal in value to those withdrawn, upon the specific written direction of the United States manager or an assistant United States manager when duly empowered and acting pursuant to either general or specific written authority previously given or delegated by the board of directors; or

(C) transfer such assets to an official liquidator or rehabilitator pursuant to an order of a court of competent jurisdiction.

(f) Upon withdrawal of trusteed assets deposited in another state in which such insurer is authorized to do business, it shall be sufficient if the deed of trust requires similar written approval of the insurance supervising official of such state in lieu of approval of the superintendent. In all such cases the alien insurer shall notify the superintendent in writing of the nature and extent of such withdrawal.

(g) The superintendent may from time to time: (i) make examinations of the trusteed assets of any authorized alien insurer at the insurer's expense and (ii) require the trustee or trustees to file a statement, in

such form as he may prescribe, certifying the assets of such trust fund and the amounts thereof. Refusal or neglect of any trustee to comply with the foregoing requirements shall be ground for the revocation of such insurer's license or the liquidation of its United States branch.

(h) In the case of a Canadian life insurance company or a Canadian fraternal benefit society, the provisions of this section applicable to a United States manager refer to the president, vice-president, secretary or treasurer of the company at its home office in Canada or to any officer of the society elected by its supreme governing body, when duly empowered and authorized for such purpose.