

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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Legislative Document

No. 1553

S.P. 522

In Senate, April 10, 2003

### An Act To Permit Special Purpose Reinsurance Vehicles

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Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator LaFOUNTAIN of York.  
Cosponsored by Representative YOUNG of Limestone.

Be it enacted by the People of the State of Maine as follows:

2  
3       **Sec. 1. 24-A MRSA §731-B, sub-§1, ¶A,** as amended by PL 1991,  
4 c. 828, §16, is further amended to read:

6       A. Is licensed to transact insurance or reinsurance in this  
7 State, provided the assuming insurer maintains surplus as  
8 regards policyholders in an amount not less than the sum of  
9 paid-in capital stock, if any, and surplus as otherwise  
10 required for a certificate of authority for the kinds and  
11 amount of insurance and assumed reinsurance the insurer has  
12 in force net of any applicable ceded reinsurance. If the  
13 assuming insurer is licensed as a special purpose  
14 reinsurance vehicle pursuant to section 782 and maintains  
15 capital and surplus in accordance with the requirements of  
16 section 787, credit for reinsurance under a special purpose  
17 reinsurance vehicle contract, as defined in section 781,  
18 subsection 15, is allowed only to the extent that:

20               (1) The fair value of the assets held in trust for the  
21 benefit of the ceding insurer equals or exceeds the  
22 obligations due and payable to the ceding insurer by  
23 the special purpose reinsurance vehicle under the  
24 special purpose reinsurance vehicle contract;

26               (2) The assets are held in trust in accordance with  
27 the requirements in subchapter 6;

28               (3) The assets are administered in the manner and  
29 pursuant to arrangements under subchapter 6;

30               (4) The assets are held or invested in one or more of  
31 the forms allowed in section 795; and

32               (5) The contract complies with all other relevant  
33 requirements of subchapter 6;

34  
35  
36  
37       **Sec. 2. 24-A MRSA c. 9, sub-c. 6** is enacted to read:

38  
39                               **SUBCHAPTER 6**

40  
41                                       **SPECIAL PURPOSE REINSURANCE VEHICLE**

42  
43       **§781. Definitions**

44  
45       As used in this subchapter, unless the context otherwise  
46 indicates, the following terms have the following meanings.

1. Aggregate limit. "Aggregate limit" means the maximum sum payable to the ceding insurer under a special purpose reinsurance vehicle contract.

2. Catastrophe excess of loss property reinsurance. "Catastrophe excess of loss property reinsurance" means excess of loss reinsurance for a catastrophe layer of a reinsurance program, written on either a per occurrence or aggregate basis.

3. Catastrophe life or health reinsurance. "Catastrophe life or health reinsurance" means reinsurance of life, health or annuity products that transfers mortality, morbidity, survival or other related risks in excess of existing proportional or nonproportional automatic and facultative treaties newly placed or in force on the same risks.

4. Ceding insurer. "Ceding insurer" means an insurer that enters into a special purpose reinsurance vehicle contract with a special purpose reinsurance vehicle and includes a reinsurer retroceding assumed reinsurance to a special purpose reinsurance vehicle. A group of affiliated insurers under common control entering into a special purpose reinsurance vehicle contract on a coordinated basis is considered a single ceding insurer.

5. Control. "Control," including the terms "controlling," "controlled by" and "under common control," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control is presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote or holds proxies representing 10% or more of the voting securities of any other person. This presumption may be rebutted by a showing that control does not exist. Notwithstanding this subsection, for the purposes of this subchapter, the fact that a special purpose reinsurance vehicle exclusively provides reinsurance to a ceding insurer under a special purpose reinsurance vehicle contract is not by itself sufficient grounds for a finding that the reinsurance vehicle or the special purpose reinsurance vehicle organizer or owner is controlled by or under common control with the ceding insurer.

6. Fair value. "Fair value" means:

A. As to cash, the amount of cash; and

B. As to an asset other than cash:

2           (1) The amount at which that asset could be bought or  
3           sold in a current transaction between arms-length,  
4           willing parties;

5           (2) The quoted market price for the asset in active  
6           markets must be used if available; and

7           (3) If quoted market prices are not available, a value  
8           determined using the best information available  
9           considering values of like assets and other valuation  
10           methods, such as present value of future cash flows,  
11           historical value of the same or similar assets or  
12           comparison to values of other asset classes the value  
13           of which have been historically related to the subject  
14           asset.

15           **7. Fully funded.** "Fully funded" means, with respect to a  
16           special purpose reinsurance vehicle contract, that the fair value  
17           of the assets held in trust by or on behalf of the special  
18           purpose reinsurance vehicle under the special purpose reinsurance  
19           vehicle contract on the date on which the special purpose  
20           reinsurance vehicle contract is effected, equals or exceeds the  
21           aggregate limit as defined in this subchapter.

22           **8. Indemnity trigger.** "Indemnity trigger" means a  
23           transaction term by which the special purpose reinsurance  
24           vehicle's obligation to pay the ceding insurer for losses covered  
25           by a special purpose reinsurance vehicle contract is triggered by  
26           the ceding insurer incurring a specified level of losses.

27           **9. Insolvency.** "Insolvency" or "insolvent" means that the  
28           special purpose reinsurance vehicle is unable to pay its  
29           obligations when they are due unless the obligations are the  
30           subject of a bona fide dispute.

31           **10. Nonindemnity trigger.** "Nonindemnity trigger" means a  
32           transaction term by which the special purpose reinsurance  
33           vehicle's obligation to pay the ceding insurer under a special  
34           purpose reinsurance vehicle contract arises from the occurrence  
35           or existence of some event or condition other than the ceding  
36           insurer incurring a specified level of losses under its insurance  
37           or reinsurance contracts.

38           **11. Permitted investments.** "Permitted investments" means  
39           those investments that meet the qualifications under section 795.

40           **12. Qualified United States financial institution.**  
41           "Qualified United States financial institution" means for  
42           purposes of meeting the requirements of a trustee as specified in

2 section 784 a financial institution that is eligible to act as a  
3 fiduciary of a trust and:

4 A. Is organized or, in the case of a United States branch  
5 or agency office of a foreign banking organization, is  
6 licensed under the laws of the United States or any state;  
7 and

8 B. Is regulated, supervised and examined by federal or  
9 state authorities having regulatory authority over banks and  
10 trust companies.

11 13. Reinsurance vehicle. "Reinsurance vehicle" means a  
12 special purpose reinsurance vehicle.

13 14. Special purpose reinsurance vehicle. "Special purpose  
14 reinsurance vehicle" means an entity domiciled in and organized  
15 under the laws of this State that has received a limited  
16 certificate of authority from the superintendent under this  
17 subchapter exclusively for the limited purpose of entering into  
18 and effectuating special purpose reinsurance vehicle insurance  
19 securitizations, special purpose reinsurance vehicle contracts  
20 and other related transactions permitted by this subchapter.

21 15. Special purpose reinsurance vehicle contract;  
22 contract. "Special purpose reinsurance vehicle contract" or  
23 "contract" means a contract between the special purpose  
24 reinsurance vehicle and the ceding insurer pursuant to which the  
25 special purpose reinsurance vehicle agrees to pay the ceding  
26 insurer an agreed amount upon the occurrence of a triggering  
27 event.

28 16. Special purpose reinsurance vehicle insurance  
29 securitization; insurance securitization. "Special purpose  
30 reinsurance vehicle insurance securitization" or "insurance  
31 securitization" means a package of related risk transfer  
32 instruments and facilitating administrative agreements by which  
33 proceeds are obtained by a special purpose reinsurance vehicle  
34 through the issuance of securities and are held in trust pursuant  
35 to the requirements of this subchapter to secure the obligations  
36 of the special purpose reinsurance vehicle under a special  
37 purpose reinsurance vehicle contract with one or more ceding  
38 insurers, and in which the special purpose reinsurance vehicle's  
39 obligation to return the full initial investment to the holders  
40 of such securities pursuant to the transaction terms is  
41 contingent upon the funds not being used to pay the obligations  
42 of the special purpose reinsurance vehicle to the ceding insurers  
43 under the special purpose reinsurance vehicle contract.

2           17. Special purpose reinsurance vehicle organizer;  
3           organizer. "Special purpose reinsurance vehicle organizer" or  
4           "organizer" means one or more persons that have organized or  
5           intend to organize a special purpose reinsurance vehicle under  
6           authority obtained as specified in this subchapter.

7           18. Special purpose reinsurance vehicle securities;  
8           securities. "Special purpose reinsurance vehicle securities" or  
9           "securities" means the securities issued by a special purpose  
10           reinsurance vehicle.

11           19. Triggering event. "Triggering event" means an event or  
12           condition that if and when it occurs or exists obligates the  
13           special purpose reinsurance vehicle to make a payment to the  
14           ceding insurer under the provisions of a special purpose  
15           reinsurance vehicle contract.

16  
17           **§782. Limited certificate of authority required**

18  
19           1. Limited certificate of authority. In order to  
20           securitize one or more ceding insurers' risks, a special purpose  
21           reinsurance vehicle shall obtain a limited certificate of  
22           authority from the superintendent according to the provisions of  
23           this section.

24  
25           2. Application. A special purpose reinsurance vehicle  
26           organizer seeking to obtain a limited certificate of authority  
27           for a special purpose reinsurance vehicle shall file an  
28           application for a limited certificate of authority with the  
29           superintendent and pay the application fee specified in section  
30           601, subsection 1. A complete application must include the  
31           following:

32  
33           A. An affidavit verifying that each prospective organizer  
34           meets the requirements of this subchapter;

35  
36           B. A representation that the prospective organizer intends  
37           to form a special purpose reinsurance vehicle that operates  
38           in accordance with the requirements under this subchapter;

39  
40           C. The proposed name of the special purpose reinsurance  
41           vehicle;

42  
43           D. Biographical affidavits of all organizers setting forth  
44           their legal names, any names under which they have conducted  
45           or are conducting their affairs and any names of any person  
46           affiliated, as defined in section 222, with any organizer,  
47           together with such other biographical information as the  
48           superintendent may request;

49  
50

2           E. The source and form of the minimum capital to be  
3           contributed to the special purpose reinsurance vehicle;

4           F. Any persons with which the special purpose reinsurance  
5           vehicle is or upon formation will be affiliated as defined  
6           in section 222;

7           G. The names and biographical affidavits of the proposed  
8           members of the board of directors and principal officers of  
9           the special purpose reinsurance vehicle pursuant to section  
10           790 , setting forth their legal names, any names under which  
11           they have conducted or are conducting their affairs and any  
12           names of any person affiliated, as defined in section 222,  
13           with any proposed director or officer, together with such  
14           other biographical information as the superintendent may  
15           request;

16           H. A plan of operation, consisting of a description of the  
17           contemplated insurance securitization, the special purpose  
18           reinsurance vehicle contract and related transactions, which  
19           must include:

20                   (1) Draft documentation or at the discretion of the  
21                   superintendent a written summary of all material  
22                   agreements that are planned in order to effectuate the  
23                   insurance securitization and the related contract,  
24                   including the names of the ceding insurers, the nature  
25                   of the risks being assumed and the maximum amounts,  
26                   purpose and nature and the interrelationships of the  
27                   various transactions required to effectuate the  
28                   insurance securitization;

29                   (2) The investment strategy of the special purpose  
30                   reinsurance vehicle and a representation that the  
31                   investment strategy complies with the investment  
32                   requirements set forth in this subchapter and that the  
33                   strategy includes investment practices or other  
34                   provisions to preserve asset values that facilitate  
35                   attainment of full funding during the term of the  
36                   insurance securitization with assets that can be  
37                   monetized in response to a triggering event without a  
38                   substantial loss in value;

39                   (3) A description of the method by which losses  
40                   covered by the contract that may develop after the  
41                   termination of the contract period are to be addressed  
42                   under the provisions of the contract; and

43                   (4) A representation that the trust agreement under  
44                   section 784, subsection 2, paragraph E and the trusts  
45                   section 784, subsection 2, paragraph E and the trusts



2                   holding assets that secure the obligations of the  
3                   special purpose reinsurance vehicle under the contract  
4                   and the contract with the ceding insurers in connection  
5                   with the contemplated insurance securitization are  
6                   structured in accordance with the requirements under  
7                   this subchapter.

8                   3. Additional information. The superintendent shall notify  
9                   the special purpose reinsurance vehicle organizer if any  
10                   additional information is needed in order to review the  
11                   application and shall approve or deny the application within 60  
12                   days after determining that the application is complete.

13                   A. The superintendent shall approve the application and  
14                   issue a limited certificate of authority under this section  
15                   if the superintendent finds that:

16                                   (1) The proposed plan of operation provides a  
17                                   reasonable expectation of a successful operation;

18                                   (2) The terms of the contract and related transactions  
19                                   comply with this subchapter and any applicable rules  
20                                   adopted by the superintendent;

21                                   (3) The proposed plan of operation is not hazardous to  
22                                   any ceding insurer or to policyholders; and

23                                   (4) The insurance regulator of the state of domicile  
24                                   of each ceding insurer has notified the superintendent  
25                                   in writing that it has not disapproved the  
26                                   transaction. The superintendent may waive this  
27                                   requirement for a ceding insurer whose domiciliary  
28                                   state does not have a substantially similar law if the  
29                                   superintendent finds that the domiciliary regulator has  
30                                   had notice and adequate opportunity to review the  
31                                   proposal and has not objected.

32                   B. In evaluating the expectation of a successful operation,  
33                   the superintendent shall consider, among other factors,  
34                   whether the proposed organizer, directors and officers of  
35                   the proposed special purpose reinsurance vehicle are of good  
36                   character and not reasonably believed to be affiliated,  
37                   directly or indirectly, through ownership, control,  
38                   management, reinsurance transactions or other insurance or  
39                   business relations, with any person known to have been  
40                   involved in the improper manipulation of assets, accounts or  
41                   reinsurance.

42                   C. If the superintendent denies the application or if the  
43                   superintendent withholds consent to a proposed transaction

2 involving a domestic ceding insurer under a similar law of  
3 another jurisdiction the proposed organizer or ceding  
4 insurer has the right to a hearing upon a timely request  
5 filed pursuant to section 229.

6 4. Approval. Upon approval of the application by the  
7 superintendent and the issuance of a limited certificate of  
8 authority, the special purpose reinsurance vehicle may be  
9 acquired or formed and, in accordance with the approved plan of  
10 operation, the special purpose reinsurance vehicle may enter into  
11 contracts and conduct other activities within the scope of the  
12 filed plan of operation.

13 5. Reinsurance activities. The limited certificate of  
14 authority must state that the special purpose reinsurance  
15 vehicle's authorization to be involved in the business of  
16 insurance is limited only to the reinsurance activities that the  
17 special purpose reinsurance vehicle is allowed to conduct  
18 pursuant to this subchapter.

19 6. Documentation of insurance securitization. The special  
20 purpose reinsurance vehicle organizer shall provide a complete  
21 set of the documentation of the insurance securitization to the  
22 superintendent upon closing of any transactions, including an  
23 opinion of legal counsel with respect to compliance with this  
24 subchapter and any other applicable laws as of the effective date  
25 of any transaction. Any material change to the special purpose  
26 reinsurance vehicle's plan of operation filed pursuant to  
27 subsection 2, including, but not limited to, the issuance of new  
28 securities to continue the insurance securitization activities of  
29 the special purpose reinsurance vehicle pursuant to this  
30 subchapter after expiration and full satisfaction of the initial  
31 securitization transactions, requires prior approval of the  
32 superintendent. A change in the counterparty to swap  
33 transactions for an existing insurance securitization as allowed  
34 under this subchapter is not considered a material change unless  
35 the special purpose reinsurance vehicle's managers know or should  
36 know that the new counterparty presents a substantial risk of  
37 default.

38 **§783. Limited purpose of special purpose reinsurance vehicle**  
39

40 Special purpose reinsurance vehicles authorized under this  
41 subchapter are created for the limited purpose of entering into  
42 insurance securitization transactions with investors and related  
43 agreements to pay one or more ceding insurers agreed-upon amounts  
44 under a special purpose reinsurance vehicle contract upon the  
45 occurrence of triggering events related to the insurance business  
46 of the ceding insurer. A special purpose reinsurance vehicle may  
47

2 not issue a contract for assumption of risk or indemnification of  
3 loss other than a special purpose reinsurance vehicle contract.

4 **§784. Approved transactions and operation of special purpose**  
5 **reinsurance vehicles**

6  
7 **1. Contracts.** Special purpose reinsurance vehicles  
8 authorized under this subchapter may enter into and effectuate  
9 special purpose reinsurance vehicle contracts with one or more  
10 ceding insurers as long as the contracts:

11 A. Obligate the reinsurance vehicle to indemnify the ceding  
12 insurer for losses;

13 B. Are securitized in full through a single special purpose  
14 reinsurance vehicle insurance securitization; and

15 C. Are fully funded and secured with assets held in trust  
16 in accordance with the requirements of this section pursuant  
17 to agreements proposed under this subchapter, and invested  
18 in a manner that meets the criteria set forth in section 795.

19  
20 **2. Eligible lines of business.** A special purpose  
21 reinsurance vehicle contract may only provide catastrophe excess  
22 of loss property reinsurance coverage or catastrophe life or  
23 health reinsurance coverage, unless the superintendent adopts  
24 rules pursuant to section 797 specifying additional lines of  
25 business that may be reinsured by a special purpose reinsurance  
26 vehicle.

27  
28 **3. Multiple ceding insurers.** A special purpose  
29 reinsurance vehicle may enter into contracts with multiple ceding  
30 insurers only if:

31 A. The special purpose reinsurance vehicle reinsures no  
32 more than 10 ceding insurers; and

33 B. Each ceding insurer has no more than \$50,000,000 in  
34 surplus as reported in its most recent financial statement  
35 filed with its domiciliary regulator, as of the date the  
36 special purpose reinsurance vehicle is licensed. A group of  
37 ceding insurers under common control may elect to be treated  
38 as separate insurers for purposes of this subsection, but  
39 only if each insurer in the group that is reinsured by the  
40 same special purpose reinsurance vehicle is counted  
41 separately for purposes of the 10-cedent limit.

42  
43 **4. Terms of operation.** A special purpose reinsurance  
44 vehicle may enter into agreements with 3rd parties and conduct  
45 business necessary to fulfill its obligations and administrative  
46 business.

2 duties incident to the insurance securitization and the special  
3 purpose reinsurance vehicle contract. The agreements may include  
4 entering into swap agreements or other transactions that have the  
5 objective of leveling timing differences in funding upfront or  
6 ongoing transaction expenses or managing credit or interest rate  
7 risk of the investments in trust to ensure that the assets held  
8 in trust are sufficient to satisfy payment or repayment of the  
9 securities issued pursuant to an insurance securitization  
10 transaction or the obligations of the special purpose reinsurance  
11 vehicle under the contract. In fulfilling its function, the  
12 special purpose reinsurance vehicle shall adhere to the following  
13 requirements and shall, to the extent of its powers, ensure that  
14 contracts obligating other parties to perform certain functions  
15 incident to its operations are substantively and materially  
16 consistent with the following requirements and guidelines.

17 A. A special purpose reinsurance vehicle must have a  
18 distinct name, which must include the designation "SPRV" or  
19 "Special Purpose Reinsurance Vehicle." The name of the  
20 reinsurance vehicle may not be deceptively similar to, or  
21 likely to be confused with or mistaken for, any other  
22 existing business name registered in this State.

23 B. Unless otherwise provided in the plan of operation, the  
24 principal place of business and office of any reinsurance  
25 vehicle organized under this subchapter must be located in  
26 this State.

27 C. The assets of a reinsurance vehicle must be preserved  
28 and administered by or on behalf of the reinsurance vehicle  
29 to satisfy the liabilities and obligations of the  
30 reinsurance vehicle incident to the insurance securitization  
31 and other related agreements including the contract.

32 D. Assets of the reinsurance vehicle that are pledged to  
33 secure obligations of the reinsurance vehicle to a ceding  
34 insurer under a contract must be held in trust and  
35 administered by a qualified United States financial  
36 institution serving as trustee. The qualified United States  
37 financial institution may not control, be controlled by or  
38 be under common control with the reinsurance vehicle or any  
39 ceding insurer.

40 E. The agreement governing the trust described in paragraph  
41 D must create one or more trust accounts into which all  
42 pledged assets must be deposited and held until distributed  
43 in accordance with the trust agreement. The pledged assets  
44 must be held by the trustee at the trustee's office in the  
45 United States and may be held in certificated or electronic  
46 form.

2 F. The provisions for withdrawal by ceding insurers of  
4 funds from the trust must be clean and unconditional,  
subject only to the following requirements:

6 (1) The ceding insurer has the right to withdraw  
8 assets from the trust account at any time without  
10 notice to the reinsurance vehicle subject only to  
12 written notice to the trustee from the ceding insurer  
that funds in the amount requested are due and payable  
by the reinsurance vehicle;

14 (2) No other statement or document need be presented  
16 in order to withdraw assets, except that the ceding  
insurer may be required to acknowledge receipt of  
withdrawn assets;

18 (3) The trust agreement described in paragraph E must  
20 indicate that it is not subject to any conditions or  
qualifications outside of the trust agreement;

22 (4) The trust agreement described in paragraph E may  
24 not contain references to any other agreements or  
documents; and

26 (5) Reference may not be made to the fact that these  
28 funds may represent reinsurance premiums or that the  
funds have been deposited for any specific purpose.

30 G. The trust agreement described in paragraph E must be  
32 established for the sole use and benefit of the ceding  
34 insurer at least to the full extent of the reinsurance  
vehicle's obligations to the ceding insurer under the  
36 contract. In the case of more than one ceding insurer, a  
separate trust agreement must be entered into with each  
ceding insurer and a separate trust account must be  
maintained for each ceding insurer.

38 H. The trust agreement described in paragraph E must  
40 provide for the trustee to:

42 (1) Receive assets and hold all assets in a safe place;

44 (2) Determine that all assets are in a form that the  
46 ceding insurer or the trustee, upon direction by the  
ceding insurer, may whenever necessary negotiate the  
48 assets, without consent or signature from the  
reinsurance vehicle or any other person or entity;

2                   (3) Furnish to the reinsurance vehicle, the  
3                   superintendent and the ceding insurer a statement of  
4                   all assets in the trust account referred to in  
5                   paragraph E reported at fair value upon its inception  
6                   and at intervals no less frequent than the end of each  
7                   calendar quarter;

8                   (4) Notify the reinsurance vehicle and the ceding  
9                   insurer within 10 days of any deposits to or  
10                   withdrawals from the trust account referred to in  
11                   paragraph E;

12                   (5) Upon written demand of the ceding insurer,  
13                   immediately take steps necessary to transfer absolutely  
14                   all right, title and interest in the assets held in the  
15                   trust account referred to in paragraph E to the ceding  
16                   insurer and deliver physical custody of the assets to  
17                   the ceding insurer; and

18                   (6) Allow no substitutions or withdrawals of assets  
19                   from the trust account referred to in paragraph E  
20                   except on written instructions from the ceding insurer.

21                   I. The trust agreement described in paragraph E must  
22                   provide that at least 30 days but not more than 45 days  
23                   before termination of the trust account written notification  
24                   of termination must be delivered by the 3rd party to the  
25                   ceding insurer.

26                   J. The trust agreement described in paragraph E may be made  
27                   subject to and governed by the laws of any state in addition  
28                   to the requirements for the trust as provided in this  
29                   subchapter as long as the state is disclosed in the plan of  
30                   operation filed with and approved by the superintendent.

31                   K. The trust agreement described in paragraph E must  
32                   prohibit invasion of the trust account referred to in  
33                   paragraph E for the purpose of paying compensation to or  
34                   reimbursing the expenses of the trustee.

35                   L. The trust agreement described in paragraph E must  
36                   provide that the trustee be liable for the trustee's own  
37                   negligence, willful misconduct or lack of good faith.

38                   (1) Notwithstanding the provisions of paragraph F,  
39                   subparagraphs (3) to (5) and paragraph M, subparagraph  
40                   (5), when a trust agreement described in paragraph E is  
41                   established in conjunction with a contract, then the  
42                   trust agreement may provide that the ceding insurer  
43                   shall undertake to use and apply any amounts drawn upon  
44                   the trust account.

2 the trust account without diminution because of the  
3 insolvency of the ceding insurer or the reinsurance  
4 vehicle for the following purposes:

5 (a) To pay or reimburse the ceding insurer  
6 amounts due to the ceding insurer under the  
7 contract, including, but not limited to, unearned  
8 premiums due to the ceding insurer if not  
9 otherwise paid by the reinsurance vehicle in  
10 accordance with the terms of that trust agreement;  
11 or

12 (b) When the ceding insurer has received  
13 notification of termination of the trust account  
14 referred to in paragraph E and when some or all of  
15 the reinsurance vehicle's obligations under the  
16 specific contract remain unliquidated and  
17 undischarged 10 days before the termination date,  
18 to withdraw amounts equal to the undischarged  
19 obligations and deposit the amounts in a separate  
20 account in the name of the ceding insurer in any  
21 qualified United States financial institution  
22 apart from its general assets in trust for the  
23 sole purpose of discharging any contractual  
24 obligations of the reinsurance vehicle that may  
25 remain executory after the withdrawal and for any  
26 period after the termination date. Assets so held  
27 must revert to the reinsurance vehicle when they  
28 are no longer necessary to secure the obligations  
29 of the reinsurance vehicle and may not exceed the  
30 sum of the following amounts as determined in good  
31 faith by the ceding insurer:

32 (i) Losses and loss expenses paid by the  
33 ceding insurer but not recovered from the  
34 reinsurance vehicle;

35 (ii) Reserves for losses reported and  
36 outstanding;

37 (iii) Reserves for losses incurred but not  
38 reported;

39 (iv) Reserves for loss expenses;

40 (v) Reserves for unearned premiums; and

41 (vi) Any additional amount necessary to  
42 maintain full funding of the aggregate limit  
43 remaining under the contract if the period of  
44

2 coverage or the agreed-upon period of loss  
3 development has yet to expire.

4 (2) The provisions to be included in the trust  
5 agreement described in paragraph E pursuant to this  
6 paragraph may instead be included in the underlying  
7 contract.

8  
9 M. A special purpose reinsurance vehicle contract must  
10 contain provisions that:

11  
12 (1) Require the reinsurance vehicle to enter into a  
13 trust agreement described in paragraph E and to  
14 establish a trust account referred to in paragraph E  
15 for the benefit of the ceding insurer and specifying  
16 what recoverables or reserves or both the trust  
17 agreement is to cover;

18  
19 (2) Stipulate that assets deposited in the trust  
20 account be valued according to their current fair value  
21 and may consist only of permitted investments;

22  
23 (3) Require the reinsurance vehicle, before depositing  
24 assets with the trustee, to execute assignments or  
25 endorsements in blank or to transfer legal title to the  
26 trustee of all shares, obligations or any other assets  
27 requiring assignments in order that the ceding insurer  
28 or the trustee upon the direction of the ceding insurer  
29 may whenever necessary negotiate any such assets  
30 without consent or signature from the reinsurance  
31 vehicle or any other entity;

32  
33 (4) Require that all settlements of account between  
34 the ceding insurer and the reinsurance vehicle be made  
35 in cash or its equivalent; and

36  
37 (5) Stipulate that the reinsurance vehicle and the  
38 ceding insurer agree that the assets in the trust  
39 account referred to in paragraph E and established  
40 pursuant to the provisions of the contract may be  
41 withdrawn by the ceding insurer at any time  
42 notwithstanding any other provisions in the contract  
43 and must be used and applied by the ceding insurer or  
44 any successor by operation of law of the ceding  
45 insurer, including, but not limited to, and subject to  
46 the provisions of section 793, any liquidator,  
47 rehabilitator, receiver or conservator of the ceding  
48 insurer, without diminution because of insolvency on  
49 the part of the ceding insurer or the reinsurance  
50 vehicle, only for the following purposes:



2                   (a) To transfer all such assets into one or more  
4                   trust accounts pursuant to Paragraph L for the  
6                   benefit of the ceding insurer pursuant to the  
                    terms of the contract and in compliance with this  
                    subchapter; and

8                   (b) To pay any other amounts that the ceding  
10                   insurer claims are due under the contract.

12                   N. The contract entered into by the reinsurance vehicle may  
14                   contain provisions that give the reinsurance vehicle the  
16                   right to seek approval from the ceding insurer to withdraw  
                    from the trust account referred to in paragraph E all or  
                    part of the assets contained in the trust account and to  
                    transfer the assets to the reinsurance vehicle as long as:

18                   (1) The reinsurance vehicle shall at the time of the  
20                   withdrawal replace the withdrawn assets with other  
22                   qualified assets having a fair value equal to the fair  
                    value of the assets withdrawn and that meet the  
                    requirements of section 795; and

24                   (2) After the withdrawals and transfer, the fair value  
26                   of the assets in the trust account referred to in  
28                   paragraph E securing the obligations of the  
30                   reinsurance vehicle under the contract is no less than  
32                   an amount needed to satisfy the full funding  
                    requirement of the contract. The ceding insurer has  
                    the sole discretion to determine whether these  
                    provisions have been satisfied but may not unreasonably  
                    nor arbitrarily withhold its approval.

34                   O. The contract must provide that investors in the  
36                   reinsurance vehicle agree that any obligation to repay  
38                   principal, interest or dividends on the securities issued by  
40                   the reinsurance vehicle must be reduced upon the occurrence  
42                   of a triggering event, to the extent that the assets of the  
                    reinsurance vehicle held in trust for the benefit of the  
                    ceding insurer are remitted to the ceding insurer in  
                    fulfillment of the obligations of the reinsurance vehicle  
                    under the contract.

44                   P. Assets held by a reinsurance vehicle in trust must be  
46                   valued at their fair value.

48                   Q. The proceeds from the sale of securities by the  
                    reinsurance vehicle to investors must be deposited with the  
                    trustee as described in this subchapter and must be held or

2 invested by the trustee in accordance with the requirements  
3 of section 795.

4 R. A reinsurance vehicle organized under this subchapter  
5 may engage only in fully funded contracts to support in full  
6 the ceding insurer's exposures assumed by the reinsurance  
7 vehicle. A contract must be indemnity-triggered unless the  
8 superintendent adopts rules pursuant to section 797  
9 authorizing nonindemnity-triggered contracts and addressing  
10 the treatment of the portion of the risk that is  
11 nonindemnity-based, including accounting, disclosure,  
12 risk-based capital treatment and the manner in which risks  
13 associated with a nonindemnity-based contract may be  
14 evaluated and managed. Assets of the reinsurance vehicle  
15 may be used to pay interest or other consideration on any  
16 outstanding debt or other obligation of the reinsurance  
17 vehicle and nothing in this paragraph may be construed or  
18 interpreted to prevent a reinsurance vehicle from entering  
19 into a swap agreement or other transaction that has the  
20 effect of guaranteeing interest or other consideration.

21 S. In the special purpose reinsurance vehicle insurance  
22 securitization, the contracts or other relating  
23 documentation must contain provisions identifying the  
24 reinsurance vehicle that enters into the reinsurance  
25 securitization and the contracts or other documentation must  
26 clearly disclose that the assets of the reinsurance vehicle  
27 and only those assets are available to pay the obligations  
28 of that reinsurance vehicle. Notwithstanding this  
29 paragraph, and subject to the provisions of this subchapter  
30 and any other applicable law, the failure to include such  
31 language in the contracts or other documentation may not be  
32 used as the sole basis by creditors, reinsurers or other  
33 claimants to circumvent the provisions of this subchapter.

34 T. A reinsurance vehicle is not authorized to:

35 (1) Issue or otherwise administer primary insurance  
36 policies;

37 (2) Have any obligation to the policyholders or  
38 reinsureds of the ceding insurer;

39 (3) Enter into a contract with a person that is not  
40 licensed or otherwise authorized to conduct the  
41 business of insurance or reinsurance in at least its  
42 state or country of domicile; or

43 (4) Assume or retain exposure to insurance or  
44 reinsurance losses for its own account that is not  
45 permitted by law.

2           initially fully funded by proceeds from an insurance  
3           securitization that meets the requirements of this  
4           subchapter.

5           U. At the cessation of business of a reinsurance vehicle,  
6           the limited certificate of authority granted by the  
7           superintendent under section 782 expires and the reinsurance  
8           vehicle may no longer be authorized to conduct activities  
9           pursuant to this subchapter until a new certificate of  
10           authority is issued pursuant to a new filing in accordance  
11           with section 782.

12           V. It is unlawful for a reinsurance vehicle to lend or  
13           otherwise invest or place in custody, trust or under  
14           management any of its assets with or to borrow money or  
15           receive a loan or advance from, other than by issuance of  
16           the securities pursuant to an insurance securitization, from  
17           anyone convicted of a felony, anyone who is untrustworthy or  
18           of known bad character or anyone convicted of a criminal  
19           offense involving the conversion or misappropriation of  
20           fiduciary funds or insurance accounts, theft, deceit, fraud,  
21           misrepresentation or corruption.

22  
23  
24       **§785. Powers**

25           1. Powers. A special purpose reinsurance vehicle  
26           authorized under this subchapter has the powers to enter into  
27           contracts and to conduct other commercial activities necessary to  
28           fulfill the purposes of this subchapter. These activities may  
29           include, but are not limited to, entering into contracts, issuing  
30           securities of the special purpose reinsurance vehicle and  
31           complying with the terms of the contracts, entering into trust  
32           agreements, swap agreements and any other agreements necessary to  
33           effectuate an insurance securitization in compliance with the  
34           limitations and pursuant to the authorities granted to the  
35           reinsurance vehicle under this subchapter or the plan of  
36           operation approved by the superintendent.

37           2. Bylaws. A special purpose reinsurance vehicle organized  
38           or doing business under this subchapter is capable of suing or  
39           being sued and may make or enforce contracts in relation to the  
40           business of the reinsurance vehicle; may have and use a common  
41           seal and in the name of the reinsurance vehicle or by a trustee  
42           chosen by the board of directors is capable of taking,  
43           purchasing, holding and disposing of real and personal property  
44           for carrying into effect the purposes of its organization; and  
45           may by its board of directors, trustees, officers or managers  
46           make bylaws and amendments to the bylaws not inconsistent with  
47           the laws or the constitution of this State or of the United  
48           States. The bylaws must define the manner of electing directors,  
49             
50

2 trustees or managers and officers of the reinsurance vehicle,  
3 together with their qualifications, duties and term of office.

4 **§786. Affiliation**

6 Notwithstanding the provisions of section 222, the special  
7 purpose reinsurance vehicle, the special purpose reinsurance  
8 vehicle organizer or subsequent debt or equity investors in  
9 special purpose reinsurance vehicle securities are not deemed  
10 affiliates of the ceding insurer by virtue of the special purpose  
11 reinsurance vehicle contract between the ceding insurer and the  
12 reinsurance vehicle, the securities of the reinsurance vehicle or  
13 related agreements necessary to implement the special purpose  
14 reinsurance vehicle insurance securitization. The reinsurance  
15 vehicle may not be controlled by, may not control and may not be  
16 under common control with any ceding insurer that is a party to a  
17 contract.

18 **§787. Capitalization**

20 A special purpose reinsurance vehicle must have minimum  
21 initial capital of not less than \$5,000. All of the initial  
22 capital must be received by the reinsurance vehicle in cash. The  
23 minimum initial capital required and all other funds of the  
24 reinsurance vehicle in excess of its minimum initial capital,  
25 including funds held in trust to secure the obligations of the  
26 reinsurance vehicle pursuant to its special purpose reinsurance  
27 vehicle contracts, must be invested as provided in section 795.

30 **§788. Dividends**

32 The special purpose reinsurance vehicle may not declare or  
33 pay dividends in any form to its owners unless the dividends do  
34 not decrease the capital of the reinsurance vehicle below \$5,000  
35 and, after giving effect to the dividends, the assets of the  
36 reinsurance vehicle, including assets held in trust pursuant to  
37 the terms of the insurance securitization, must be sufficient to  
38 meet its obligations. Except for dividends specifically provided  
39 for in the approved plan of operation under section 782,  
40 subsection 2, paragraph H, the prior approval of the  
41 superintendent is required for any dividend paid during the term  
42 of coverage or while the reinsurance vehicle has undischarged  
43 obligations to the ceding insurer. The dividends may be declared  
44 by the board of directors of the reinsurance vehicle if the  
45 dividends would not violate the provisions of this subchapter or  
46 the approved plan of operation and would not jeopardize the  
47 fulfillment of the obligations of the reinsurance vehicle or the  
48 trustee pursuant to the special purpose reinsurance vehicle  
insurance securitization, the special purpose reinsurance vehicle

2 contract or any related transaction. The provisions of section  
3 222, subsections 11-A and 11-B do not apply to such dividends.

4 **§789. Records and financial reports**

6 **1. Records.** The records of the special purpose reinsurance  
7 vehicle must be maintained in this State and must be available  
8 for examination by the superintendent at any time. No later than  
9 5 months after the end of the fiscal year of the reinsurance  
10 vehicle, the reinsurance vehicle shall file with the  
11 superintendent an audit by a certified public accounting firm of  
12 the financial statements of the reinsurance vehicle and the trust  
13 accounts referred to in section 784, subsection 2, paragraph E.

14 **2. Statement of operation.** Each special purpose  
15 reinsurance vehicle organized under this subchapter shall file  
16 with the superintendent no later than March 1st of each year a  
17 statement of operations, including a statement of income, a  
18 balance sheet and a detailed listing of invested assets,  
19 including identification of assets held in trust to secure the  
20 reinsurance vehicle's obligations under the special purpose  
21 reinsurance vehicle contract, for the year ending the prior  
22 December 31st. The statements must be prepared in accordance  
23 with statutory accounting principles consistent with section  
24 901-A on forms required by the superintendent.

25 **3. Financial statement.** The special purpose reinsurance  
26 vehicle shall keep its books and records in such manner that its  
27 financial condition, affairs and operations can be ascertained  
28 and so that its financial statements filed with the  
29 superintendent can be readily verified and its compliance with  
30 the provisions of this subchapter determined. The books and  
31 records may be photographed, reproduced on film or stored and  
32 reproduced electronically.

33 **4. Preservation.** All books, records, documents, accounts  
34 and vouchers must be preserved and kept available in this State  
35 for the purpose of examination and until authority to destroy or  
36 otherwise dispose of the records is secured from the  
37 superintendent. The original records may, however, be kept and  
38 maintained outside this State if, according to a plan adopted by  
39 the special purpose reinsurance vehicle's board of directors and  
40 approved by the superintendent, it maintains suitable records in  
41 lieu of the original records.

42 **§790. Officers and directors**

43 The directors of a special purpose reinsurance vehicle shall  
44 elect officers that they consider necessary to carry out the  
45 purposes of the reinsurance vehicle pursuant to this subchapter.

2 The provisions of Title 13-C, section 857 apply to the  
3 indemnification of officers and directors of reinsurance vehicles  
4 organized under this subchapter.

5 1. Appointment; election of officers; directors. Each  
6 special purpose reinsurance vehicle authorized to do business in  
7 this State shall notify the superintendent within 30 days after  
8 the appointment or election of any new officers or directors.

9 2. Removal of officer; director. When the superintendent  
10 determines that an officer or director does not meet the  
11 standards set forth in this section, the superintendent shall,  
12 after notice and opportunity for hearing afforded to the officer  
13 or director, and after a finding that the officer or director is  
14 incompetent or untrustworthy or of known bad character, order the  
15 removal of the person. If the reinsurance vehicle does not  
16 comply with a removal order within 30 days, the superintendent  
17 may suspend that reinsurance vehicle's limited certificate of  
18 authority until such time as the order is complied with.

19 3. Loans with affiliate. The reinsurance vehicle may make  
20 no loans to any special purpose reinsurance vehicle organizer,  
21 owner, director, officer, manager or affiliate of the reinsurance  
22 vehicle.

#### 23 §791. Fees and taxes

24 A special purpose reinsurance vehicle application under  
25 section 782, subsection 2 is subject to the application fee  
26 specified in section 601, subsection 1. A reinsurance vehicle is  
27 also responsible for expenses and costs incurred by the bureau in  
28 accordance with section 228. The reinsurance vehicle is not  
29 subject to state premium or other taxes incidental to the  
30 operation of its business as long as the business remains within  
31 the limitations of this subchapter.

#### 32 §792. Dissolution

33 A special purpose reinsurance vehicle operating under this  
34 subchapter may be dissolved at any time by a vote of its  
35 directors under section 790 and after the action has been  
36 approved by the superintendent. Voluntary dissolution may not be  
37 effected or allowed until and unless all of the obligations of  
38 the reinsurance vehicle pursuant to the insurance securitization  
39 have been fully and finally satisfied pursuant to their terms.  
40 In the case of voluntary dissolution, the disposition of the  
41 affairs of the reinsurance vehicle, including the settlement of  
42 all outstanding obligations, must be made by the officers or  
43 directors of the reinsurance vehicle and when the liquidation has  
44 been completed and a final statement in acceptable form has been  
45 completed.

2 filed with and approved by the superintendent the provisions for  
3 voluntary dissolution under section 3484 must be followed to  
4 dissolve the reinsurance vehicle.

6 **§793. Conservation, rehabilitation or liquidation**

8 **1. Authorized insurer.** A special purpose reinsurance  
9 vehicle is considered an authorized insurer for purposes of  
10 section 4351, subsection 1 and the provisions of chapter 57 apply  
11 to a reinsurance vehicle except to the extent modified by this  
12 section.

14 **2. Grounds for action.** Notwithstanding the provisions of  
15 sections 4356 and 4357, the Superior Court may issue an order  
16 authorizing the superintendent to conserve, rehabilitate or  
17 liquidate a special purpose reinsurance vehicle domiciled in this  
18 State only if the superintendent proves by clear and convincing  
19 evidence or the reinsurance vehicle stipulates after notice and  
20 opportunity for hearing that:

22 **A.** There has been embezzlement, wrongful sequestration,  
23 dissipation or diversion of the assets of the reinsurance  
24 vehicle intended to be used to pay amounts owed to the  
25 ceding insurer or the holders of special purpose reinsurance  
26 vehicle securities; or

28 **B.** The reinsurance vehicle is insolvent and the holders of  
29 a majority in outstanding principal amount of each class of  
30 special purpose reinsurance vehicle securities request or  
31 consent to conservation, rehabilitation or liquidation under  
32 this subchapter.

34 **3. Receiver.** Notwithstanding any contrary provision of  
35 this Title, rules adopted under this Title or any other  
36 applicable law, upon any order of conservation, rehabilitation or  
37 liquidation of the special purpose reinsurance vehicle, a  
38 receiver is bound to deal with the reinsurance vehicle's assets  
39 and liabilities in accordance with the requirements under this  
40 subchapter.

42 **4. Recoverable amounts.** With respect to amounts  
43 recoverable under a special purpose reinsurance vehicle contract,  
44 the amount recoverable by the receiver may not be reduced or  
45 diminished as a result of the entry of an order of conservation,  
46 rehabilitation or liquidation with respect to the ceding insurer,  
47 notwithstanding any provisions to the contrary in the contracts  
48 or other documentation governing the special purpose reinsurance  
vehicle insurance securitization.

2 A. Notwithstanding the provisions of chapter 57, an  
4 application or petition in any delinquency proceeding  
6 relating to a ceding insurer or any temporary restraining  
8 order or injunction issued in any such proceeding may not  
10 prohibit the transaction of any business by a reinsurance  
12 vehicle, including any payment by a reinsurance vehicle made  
14 pursuant to a special purpose reinsurance vehicle security  
16 or any action or proceeding against a reinsurance vehicle or  
18 its assets.

20 B. Notwithstanding the provisions of chapter 57, subchapter  
22 2, the commencement of a summary proceeding or other interim  
24 proceeding commenced prior to a formal delinquency  
26 proceeding with respect to a reinsurance vehicle and any  
28 order issued by the court in such proceeding may not  
30 prohibit a reinsurance vehicle from making a payment  
32 pursuant to a special purpose reinsurance vehicle security  
34 or contract or from taking any action required to make the  
36 payment.

38 5. Nonfraudulent transfer. Notwithstanding any other  
40 provision of chapter 57 or other state law:

42 A. A receiver of a ceding insurer may not avoid a  
44 nonfraudulent transfer by a ceding insurer to a special  
46 purpose reinsurance vehicle of money or other property made  
48 pursuant to a special purpose reinsurance vehicle contract;  
50 and

52 B. A receiver of a special purpose reinsurance vehicle may  
54 not void a nonfraudulent transfer by the reinsurance vehicle  
56 of money or other property made to a ceding insurer pursuant  
58 to a special purpose reinsurance vehicle contract or made to  
60 or for the benefit of any holder of a special purpose  
62 reinsurance vehicle security on account of the special  
64 purpose reinsurance vehicle security.

66 6. Fulfillment of obligations. With the exception of the  
68 fulfillment of the obligations under a special purpose  
70 reinsurance vehicle contract and notwithstanding any other  
72 provisions of this subchapter or other law of this State to the  
74 contrary the assets of a special purpose reinsurance vehicle  
76 including assets held in trust may not be consolidated with or  
78 included in the estate of a ceding insurer in any delinquency  
80 proceeding against the ceding insurer under this subchapter for  
82 any purpose, including, without limitation, distribution to  
84 creditors of the ceding insurer.

86 7. Domiciliary receiver. Notwithstanding any other  
88 provision of this subchapter:



2 A. The domiciliary receiver of a special purpose  
3 reinsurance vehicle domiciled in another state is vested by  
4 operation of law with the title to all of the assets,  
5 property, contracts and rights of action and all of the  
6 books, accounts and other records of the reinsurance vehicle  
7 located in this State. The domiciliary receiver has the  
8 immediate right to recover all such vested property, assets  
9 and causes of action of the reinsurance vehicle located in  
10 this State.

11 B. An ancillary proceeding may not be commenced or  
12 prosecuted in this State against a special purpose  
13 reinsurance vehicle domiciled in another state.

14 **§794. Not subject to guaranty funds; residual market or similar**  
15 **arrangements**

16  
17 1. Guaranty funds. The special purpose reinsurance vehicle  
18 or the activities, assets and obligations relating to the  
19 reinsurance vehicle are not subject to the provisions of chapter  
20 57, subchapter 3 or chapter 62 and a reinsurance vehicle may not  
21 be assessed by or otherwise be required to contribute to any  
22 guaranty fund or guaranty association in this State with respect  
23 to the activities, assets or obligations of a reinsurance vehicle  
24 or the ceding insurer.

25  
26 2. Residual market. The special purpose reinsurance  
27 vehicle may not be required to participate in any residual  
28 market, so-called "FAIR" plan or other similar plan to provide  
29 insurance coverage, take out policies, assume risks, make capital  
30 contributions, pay or be otherwise obligated for assessments,  
31 surcharges or fees or otherwise support or participate in such  
32 plans or arrangements.

33 **§795. Asset and investment limitations**

34  
35 1. Assets. Assets of the special purpose reinsurance  
36 vehicle held in trust to secure obligations under the special  
37 purpose reinsurance vehicle contract must at all times be held in:

38  
39 A. Cash and cash equivalents;

40  
41 B. Securities listed by the Securities Valuation Office of  
42 the National Association of Commissioners or its successor  
43 organization and qualifying as admitted assets under  
44 statutory accounting principles pursuant to section 901-A; or  
45 or

46  
47 C. Any other form of security acceptable to the  
48 superintendent.

49  
50

2        **2. Investment practices.** In addition, the special purpose  
3        reinsurance vehicle may enter into swap agreements or other  
4        transactions that have the objective of leveling timing  
5        differences in funding of upfront or ongoing transaction expenses  
6        or managing credit or interest rate risk of the investments in  
7        the trust to ensure that the investments are sufficient to ensure  
8        payment or repayment of the securities and related interest or  
9        principal payments issued pursuant to a special purpose  
10       reinsurance vehicle insurance securitization transaction or the  
11       reinsurance vehicle's obligations under the special purpose  
12       reinsurance vehicle contract.

13       **§796. No transaction of insurance business by investors in**  
14       **securities**

15       The securities issued by the special purpose reinsurance  
16       vehicle pursuant to a special purpose reinsurance vehicle  
17       insurance securitization are not deemed to be insurance or  
18       reinsurance contracts. An investor in such securities issued  
19       pursuant to insurance securitization or any holder of such  
20       securities may not by sole means of this investment or holding be  
21       deemed to be transacting an insurance business in this State.  
22       The underwriters or selling agents and their partners, directors,  
23       officers, members, managers, employees, agents, representatives  
24       and advisors involved in an insurance securitization are not  
25       deemed to be conducting an insurance or reinsurance agency,  
26       brokerage, intermediary, advisory or consulting business by  
27       virtue of their activities in connection with the special purpose  
28       reinsurance vehicle or with the insurance securitization.

29       **§797. Authority to adopt rules**

30       The superintendent may adopt rules necessary to effectuate  
31       the purposes of this subchapter. Any rules so adopted do not  
32       affect a special purpose reinsurance vehicle insurance  
33       securitization in effect at the time of adoption. Rules adopted  
34       pursuant to this subchapter are routine technical rules as  
35       defined in Title 5, chapter 375, subchapter 2-A.

36       **§798. Exemption from insurance laws within limitations**

37       **1. Titles consistent.** A special purpose reinsurance  
38       vehicle is subject to chapters 1, 3 and 5 to the extent  
39       consistent with this subchapter.

40       **2. Provisions not applicable.** No other provisions of this  
41       Title are applicable to a special purpose reinsurance vehicle  
42       organized under this subchapter, except as expressly provided in  
43       this subchapter or in rules adopted by the superintendent  
44       pursuant to section 797.

2

## SUMMARY

4

6 This bill permits establishment of special purpose  
8 reinsurance vehicles and establishes a regulatory framework for  
10 the oversight of activities related to special purpose  
12 reinsurance vehicles. Special purpose reinsurance vehicles  
14 provide insurers an option other than standard reinsurance as a  
16 possible method of transferring risk at a time when insurers are  
18 facing significant increases in reinsurance costs. The bill is  
substantially similar to the National Association of Insurance  
Commissioners' Special Purpose Reinsurance Vehicle Model Act and  
would permit insurers access to special purpose reinsurance  
vehicles in a marketplace other than those offshore insurance  
markets where special purpose reinsurance vehicles are already  
permitted.

18

20 A special purpose reinsurance vehicle is an entity  
22 established for the exclusive purpose of facilitating the  
24 securitization of the risk of one or more ceding insurers as a  
26 means of accessing alternative sources of capital and achieving  
the benefits of securitization. Investors in fully funded  
insurance securitization transactions provide funds that are  
available to the special purpose reinsurance vehicle to secure  
the aggregate limit under a special purpose reinsurance vehicle  
contract that provides coverage against the occurrence of a  
triggering event. The creation of special purpose reinsurance  
vehicles is intended to achieve greater efficiencies in  
conducting insurance securitizations, to diversify and broaden  
insurers' access to sources of risk-bearing capital and to make  
insurance securitization generally available on reasonable terms  
to as many insurers as possible.