

3. The 2016 revisions to the
not required by the states.

(#785) should be considered acceptable but

In addition to the preceding recommendations, the Task Force is offering the following additional information in order to assist the Financial Regulation Standards and Accreditation (F) Committee in reviewing the proposed accreditation standard for Model #787.

Substantially Similar

The Task Force has recommended in the draft accreditation standard that the “substantially similar” standard be
util

Attachment A

Proposed Accreditation Standard Term and Universal Life Insurance Reserve Financing Model Regulation (#787)

State statute and/or regulation should be substantially similar to uniform, national standards that govern reserve financing arrangements pertaining to life insurance policies containing guaranteed nonlevel gross premiums, guaranteed nonlevel benefits and universal life insurance policies with secondary guarantees, to ensure that both the total security and the primary security are provided in forms and amounts that are in compliance with the requirements set forth in the (#787).

- a. Provides that the (#786) and Model #787 shall both apply to reinsurance treaties that cede liabilities pertaining to Covered Policies; provided, that in the event of a direct conflict between the provisions of Model #787 and the provisions of Model #786, the provisions of Model #787 shall apply, but only to the extent of the conflict, substantially similar to Section 3 of Model #787?
- b. Provides that Model #787 does not apply to reinsurance exempt by the provisions of Section 4 of Model #787, including reinsurance ceded to an assuming insurer that meets the requirements of Section 5B(4) of the (#785)? *[Note: this significant element was updated in August 2020 to account for technical changes to Model #787]*
- c. Provides definitions of “Covered Policies,” “Grandfathered Policies,” “Required Level of Primary Security,” “Actuarial Method,” “Primary Security,” “Other Security” and “Valuation Manual” that are substantially similar to such terms as defined in Section 5 of Model #787?
- d. Provides for an Actuarial Method to establish the Required Level of Primary Security for each reinsurance treaty subject to this regulation that is substantially similar to the methodology as set forth in Section 6A of Model #787?
- e. Provides for valuations to be used 1) in calculating the Required Level of Primary Security pursuant to the Actuarial Method; and 2) in determining the amount of Primary Security and Other Security, as applicable, held by or on behalf of the ceding insurer, that are substantially similar to the valuations set out in Section 6B of Model #787?
- f. Provides for requirements to obtain credit for reinsurance with respect to ceded liabilities pertaining to Covered Policies that are substantially similar to the requirements set out in Section 7A of Model #787?
- g. Provides for requirements at inception date and on an ongoing basis substantially similar to Section 7B(1) of Model #787?
- h. Provides that if the requirements to hold Primary Security and total security are not both satisfied, the ceding insurer shall

CREDIT FOR REINSURANCE MODEL LAW

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Section 5. Rules and Regulations

A. The commissioner may adopt rules and regulations implementing the provisions of this law.

Drafting Note: It is recognized that credit for reinsurance also can be affected by other sections of the enacting state code, e.g., a statutory insolvency clause or an intermediary clause. It is recommended that states that do not have a statutory insolvency clause or an intermediary clause consider incorporating such clauses in the legislation.

B. The commissioner is further authorized to adopt rules and regulations applicable to reinsurance arrangements described in Paragraph (1) of this Section 5B.

Drafting Note: This new regulatory authority is being added in response to reinsurance arrangements entered into, directly or indirectly, with life/health insurer-affiliated captives, special purpose vehicles or similar entities that may not have the same statutory underwriting requirements or solvency requirements as U.S.-based multi-state life/health insurers. To assist in achieving national uniformity, commissioners are strongly encouraged to consider adopting regulations that are substantially similar in all material respects to NAIC adopted model regulations in the handling and treatment of such policies and reinsurance arrangements.

- (1) A regulation adopted pursuant to this Section 5B, apply only to reinsurance relating to:
 - (a) Life insurance policies with guaranteed level gross premiums or guaranteed nonlevel benefits;
 - (b) Universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period;
 - (c) Variable annuities with guaranteed death or living benefits;
 - (d) Long-term care insurance policies; or
 - (e) Such other life and health insurance and annuity products as to which the NAIC adopt

ate the requirements for the amounts and forms of security held until the rules provided in pursuant to the enabling authority of the preceding paragraph) of a regulation with terms intended to provide parity of rules applicable to those policies and reinsurance arrangements. The preceding paragraph is intended to change the scope of, or collateral requirements for

- (3) A regulation adopted pursuant to this Section 5B require to (r)99n

Credit for Reinsurance Model Law

Standard Valuation Law, including all amendments adopted by the AIC and in effect on the date as of which the calculation is made to the extent applicable.

(4)



MEMORANDUM

TO: Financial Regulation Standards and Accreditation (F) Committee

FROM: John F. Finston (CA)
Chair, Reinsurance (E) Task Force

DATE: March 20, 2017

RE: 2016 Revisions to Credit for Reinsurance Model Law (#785)
Term and Universal Life Insurance Reserve Financing Model Regulation (#787)

Executive Summary

On June 30, 2014, the Principle-Based Reserving Implementation (EX) Task Force adopted the recommendations in the report of Rector & Associates, Inc. dated June 4, 2014, regarding a proposal for the XXX/AXXX Reinsurance Framework. The Framework sought to address concerns regarding reserve financing transactions and to do so without encouraging them to move offshore. The changes would be proposed to apply only to life insurance policies containing guaranteed nonlevel gross premiums, guaranteed nonlevel benefits and universal life with secondary guarantees business (XXX/AXXX). The NAIC Executive (EX) Committee adopted the Framework (in concept) on Aug. 17, 2014. As an interim step to implementing the Framework, the NAIC adopted Actuarial Guideline XLVIII

A statement and explanation of how the potential standard is directly related to solvency surveillance and why the proposal should be included in the standards

The 2016 revisions to Model #785 provide that the commissioner may adopt regulations with respect to (1) life insurance policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits; (2) universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period; (3) variable annuities with guaranteed death or living benefits; (4) long-term care insurance policies; and (5) other life and health insurance and annuity products as to which the NAIC adopts model regulatory requirements with respect to credit for reinsurance. The revisions to Model #785 also contain a "professional reinsurer exemption" for reinsurers in title 1.6 (e)M0.5 (r)-3.9 (e)2 Tw -27.1.6 (c)9.,)TJ 27..1lr (tTw -2

that captives and SPVs may pose to the holding company system, and the current regulatory process should be enhanced to provide standardized tools and processes to be used by all regulators when reviewing such transactions. Commercial insurance-owned captives and SPVs should not be used to avoid statutory accounting. To the extent that insurance-affiliated captives and SPVs may be created in the future for unforeseen purposes, additional guidance should be developed by the NAIC to assist the states in a uniform review of transactions [Emphasis added].

In addition, in coordination with the adoption in principle of the XXX/AXXX Reinsurance Framework, the Financial Regulation Standards and Accreditation (F) Committee was given the following charge: As the various work products are adopted by the Principles Based Reserving (EX) Task Force, Executive Committee, and Plenary, consider them for inclusion in the Part A and Part B Accreditation Standards.

Finally, effective Jan. 1, 2016, the NAIC amended the Preamble for Part A: Laws and Regulations of the NAIC Policy Statement on Financial Regulation Standards to apply to the regulation of a state's domestic insurers licensed and/or organized under its captive or special purpose vehicle statutes that are similar statutory constructs with respect to XXX/AXXX business, which is deemed to satisfy the Part A accreditation requirements if the applicable reinsurance transaction satisfies the XXX/AXXX Reinsurance Framework requirements adopted by the NAIC. Further, the revised Preamble provided, as follows: "The revisions to the Credit for Reinsurance Model Act (#785) and the new XXX/AXXX Model Regulation will need to be specifically considered for accreditation purposes once adopted by the NAIC."

A statement as to the number of jurisdictions that have adopted and implemented the proposal or a similar proposal and their experience to date:

AG 48 became effective Jan. 1, 2015, and became part of the NAIC Accounting Practices and Procedures Manual through its inclusion in Appendix C. As such, provisions similar to the proposal have been effective in all states since that date.

As of this date, three states (Louisiana, Oklahoma and Utah) have gone beyond AG 48 and have adopted the 2016 revisions to Model #785 giving commissioners authority to issue regulations codifying AG 48 and the XXX/AXXX Reinsurance Framework with several other states recently considering such revisions.

The new Part A Preamble became effective Jan 2016, with regard to XXX/AXXX reinsurance captives. NAIC staff worked with necessary state insurance departments to assess compliance with the new Part A Preamble related to captives that (eca)11.Am 7 (e)9. [(A)4.6]preaeaea/ ()3.6 A-2 (ea)-2 (ea)-2 (ea)-2 (ea 1.3 (ce si)]TJ 014.5

