

**STATEMENT OF NEED AND JUSTIFICATION**

A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Oregon Department of Consumer and Business Services, Insurance Division  
Agency and Division

836  
Administrative Rules Chapter Number

In the Matter of:

Adoption of rules pertaining to treatment of reinsurance reserve credits or assets under agreements entered into prior to November 9, 1995.

Rule Caption: Treatment of reinsurance reserve credits or assets under agreements entered prior to November 9, 1995.

Statutory Authority: ORS 731.244 and 731.508

Other Authority:

Stats. Implemented: ORS 731.508(6)

Need for the Temporary Rule(s):

NAIC accreditation Part A Laws & Regulations standards require states to include in statute or regulation a provision that insurers reduce to zero any reserve credits or assets established with respect to existing reinsurance agreements entered into prior to the effective date of the Life and Health Reinsurance Agreements Model Regulation (OAR 836-012-0300 to 836-012-0330) which would not be recognized under the provisions of this regulation. This requirement was contained in OAR 836-012-0330, which was repealed September 26, 2006. The purpose of the 2006 rulemaking was to correct and update erroneous or superseded statutory, rule and other references in OAR chapter 836; to eliminate and replace obsolete material; and to make other editorial and nonsubstantive changes.

OAR 836-012-0330 appears to have been repealed in error. The repeal of that rule removed the prohibition of an insurer reporting reserve credits or assets established with respect to existing reinsurance agreements entered into prior to the effective date of the Life and Health Reinsurance Agreements Model Regulation. The repeal violates the Reinsurance Ceded accreditation standard, Part A, 10(m).

In order to remain accredited, the Division must enact this replacement rule prior to July 10, 2009. The replacement rule simply states that any reserve credits or assets established with respect to reinsurance agreements entered into prior to November 9, 1995, that would not be entitled to recognition under the provisions of OAR 836-012-0300 to 836-012-0331 must be reduced to zero for purposes of the insurer's annual statement filing.

Documents Relied Upon, and where they are available:

- 1) NAIC Life and Health Reinsurance Agreements Model Regulation
- 2) INS Division rulemaking 19-2006

Justification of Temporary Rule(s):

This temporary rulemaking is justified for the following reasons:

1. Specific consequences that would result from a failure to immediately adopt the rule and why these consequences would constitute a serious prejudice:

Failure to immediately adopt this rule would prevent the division from complying with an accreditation standard that prevents an insurer from overstating its assets or understating its liabilities when a reinsurance agreement does not include required

language. This results in an insurer overstating its surplus. The director must have an accurate presentation of a company's surplus to know whether the insurer will be able to honor its obligations to policyholders.

2. Who would suffer these consequences (the general public or specific individuals or groups):

An overstatement of surplus could result in policyholders suffering harm. The general public could also suffer harm because the general public pays for the insolvency of an insurer.

3. Why or how failure to adopt the temporary rules would cause these consequences:

An insurer could overstate its assets or understate its liabilities when a reinsurance agreement does not include required language. This would result in overstating its surplus which would not give the director the true financial condition of an insurer.

4. How the temporary rulemaking will mitigate these consequences:

An insurer would be prohibited from reporting an asset or reducing a liability as a result of a reinsurance agreement that does not comply with the provisions of OAR 836-012-0300 to 836-012-0331.

\_\_\_\_\_  
(Signed)  
Authorized Signer

\_\_\_\_\_  
Teresa Miller, Insurance Administrator  
Printed Name

\_\_\_\_\_  
July 8, 2009  
Date