FIRST REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

SENATE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 604

101ST GENERAL ASSEMBLY

1485S.02T 2021

AN ACT

To repeal sections 135.096, 287.170, 287.180, 287.715, 303.220, 319.131, 375.246, 376.1109, 379.120, 379.140, 379.145, 379.150, 379.160, and 507.184, RSMo, and to enact in lieu thereof twenty-six new sections relating to insurance.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 135.096, 287.170, 287.180, 287.715, 303.220, 319.131, 375.246, 376.1109, 379.120, 379.140, 379.145, 379.150, 379.160, and 507.184, RSMo, are repealed and twenty-six new sections enacted in lieu thereof, to be known as sections 135.096, 287.170, 287.180, 287.715, 303.220, 319.131, 375.029, 375.246, 376.1109, 376.1551, 376.2080, 379.120, 379.140, 379.150, 379.160, 379.1800, 379.1803, 379.1806, 379.1809, 379.1812, 379.1815, 379.1818, 379.1821, 379.1824, 436.700, and 507.184, to read as follows:

135.096. 1. In order to promote personal financial responsibility for long-term health care in this state, **[**~~for all taxable years beginning after December 31, 1999, a resident individual may deduct from such individual's Missouri taxable income an amount equal to fifty percent of all nonreimbursed amounts paid by such individual for qualified long-term care insurance premiums to the extent such amounts are not included the individual's itemized deductions.~~**]** for all taxable years beginning after December 31, **[**~~2006~~**]** **2020**, a resident individual may deduct from each individual's Missouri taxable income an amount equal to one hundred percent of all nonreimbursed amounts paid by such individuals for qualified long-term care insurance premiums to the extent such amounts are not included in the individual's itemized deductions. A married individual filing a Missouri income tax return separately from his or her spouse shall be allowed to make a deduction pursuant to this section in an amount equal to the proportion of

EXPLANATION — Matter enclosed in bold-faced brackets **[**thus**]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

such individual's payment of all qualified long-term care insurance premiums. The director of the department of revenue shall place a line on all Missouri individual income tax returns for the deduction created by this section.

2. For purposes of this section, "qualified long-term care insurance" means any **insurance** policy which meets or exceeds the provisions of sections 376.1100 to 376.1118 and the rules and regulations promulgated pursuant to such sections for long-term care insurance**, or any insurance policy considered an asset or resource for purposes of eligibility for long-term care benefits under MO HealthNet**.

3. Notwithstanding any other provision of law to the contrary, two or more insurers issuing a qualified long-term care insurance policy shall not act in concert with each other and with others with respect to any matters pertaining to the making of rates or rating systems.

287.170. 1. For temporary total disability the employer shall pay compensation for not more than four hundred weeks during the continuance of such disability at the weekly rate of compensation in effect under this section on the date of the injury for which compensation is being made. The amount of such compensation shall be computed as follows:

(1) For all injuries occurring on or after September 28, 1983, but before September 28, 1986, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the injured employee's average weekly earnings as of the date of the injury; provided that the weekly compensation paid under this subdivision shall not exceed an amount equal to seventy percent of the state average weekly wage, as such wage is determined by the division of employment security, as of the July first immediately preceding the date of injury;

(2) For all injuries occurring on or after September 28, 1986, but before August 28, 1990, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the injured employee's average weekly earnings as of the date of the injury; provided that the weekly compensation paid under this subdivision shall not exceed an amount equal to seventy-five percent of the state average weekly wage, as such wage is determined by the division of employment security, as of the July first immediately preceding the date of injury;

(3) For all injuries occurring on or after August 28, 1990, but before August 28, 1991, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the injured employee's average weekly earnings as of the date of the injury; provided that the weekly compensation paid under this subdivision shall not exceed an amount equal to one hundred percent of the state average weekly wage;

(4) For all injuries occurring on or after August 28, 1991, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the injured employee's average weekly earnings as of the date of the injury; provided that the weekly compensation paid under this

subdivision shall not exceed an amount equal to one hundred five percent of the state average weekly wage;

(5) For all injuries occurring on or after September 28, 1981, the weekly compensation shall in no event be less than forty dollars per week.

2. Temporary total disability payments shall be made to the claimant by check or other negotiable **[**~~instruments approved by the director which will not result in delay in payment~~**]** **instrument, or by electronic transfer or other manner authorized by the claimant,** and shall be forwarded directly to the claimant without intervention, or, when requested, to claimant's attorney if represented, except as provided in section 454.517, by any other party except by order of the division of workers' compensation.

3. An employee is disqualified from receiving temporary total disability during any period of time in which the claimant applies and receives unemployment compensation.

4. If the employee is terminated from post-injury employment based upon the employee's post-injury misconduct, neither temporary total disability nor temporary partial disability benefits under this section or section 287.180 are payable. As used in this section, the phrase "post-injury misconduct" shall not include absence from the workplace due to an injury unless the employee is capable of working with restrictions, as certified by a physician.

5. If an employee voluntarily separates from employment with an employer at a time when the employer had work available for the employee that was in compliance with any medical restriction imposed upon the employee within a reasonable degree of medical certainty as a result of the injury that is the subject of a claim for benefits under this chapter, neither temporary total disability nor temporary partial disability benefits available under this section or section 287.180 shall be payable.

287.180. 1. For temporary partial disability, compensation shall be paid during such disability but not for more than one hundred weeks, and shall be sixty-six and two-thirds percent of the difference between the average earnings prior to the accident and the amount which the employee, in the exercise of reasonable diligence, will be able to earn during the disability, to be determined in view of the nature and extent of the injury and the ability of the employee to compete in an open labor market. The amount of such compensation shall be computed as follows:

(1) For all injuries occurring on or after September 28, 1983, but before September 28, 1986, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the injured employee's average weekly earnings as of the date of injury; provided that the weekly compensation paid under this subdivision shall not exceed an amount equal to seventy percent of the state average weekly wage, as such wages are determined by the division of employment security, as of the July first immediately preceding the date of injury;

(2) For all injuries occurring on or after September 28, 1986, but before August 28, 1990, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the injured employee's average weekly earnings as of the date of the injury; provided that the weekly compensation paid under this subdivision shall not exceed an amount equal to seventy-five percent of the state average weekly wage, as such wage is determined by the division of employment security, as of the July first immediately preceding the date of injury;

(3) For all injuries occurring on or after August 28, 1990, but before August 28, 1991, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the injured employee's average weekly earnings as of the date of the injury; provided that the weekly compensation paid under this subdivision shall not exceed an amount equal to one hundred percent of the state average weekly wage;

(4) For all injuries occurring on or after August 28, 1991, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the injured employee's average weekly earnings as of the date of the injury; provided that the weekly compensation paid under this subdivision shall not exceed an amount equal to one hundred five percent of the state average weekly wage.

2. Temporary partial disability payments shall be made to the claimant by check, or other negotiable instrument **[**~~approved by the director which will not result in delay in payment~~**], or by electronic transfer or other manner authorized by the claimant**.

287.715. 1. For the purpose of providing for revenue for the second injury fund, every authorized self-insurer, and every workers' compensation policyholder insured pursuant to the provisions of this chapter, shall be liable for payment of an annual surcharge in accordance with the provisions of this section. The annual surcharge imposed under this section shall apply to all workers' compensation insurance policies and self-insurance coverages which are written or renewed on or after April 26, 1988, including the state of Missouri, including any of its departments, divisions, agencies, commissions, and boards or any political subdivisions of the state who self-insure or hold themselves out to be any part self-insured. Notwithstanding any law to the contrary, the surcharge imposed pursuant to this section shall not apply to any reinsurance or retrocessional transaction.

2. Beginning October 31, 2005, and each year thereafter, the director of the division of workers' compensation shall estimate the amount of benefits payable from the second injury fund during the following calendar year and shall calculate the total amount of the annual surcharge to be imposed during the following calendar year upon all workers' compensation policyholders and authorized self-insurers. The amount of the annual surcharge percentage to be imposed upon each policyholder and self-insured for the following calendar year commencing with the calendar year beginning on January 1, 2006, shall be set at and calculated against a percentage, not to

exceed three percent, of the policyholder's or self-insured's workers' compensation net deposits, net premiums, or net assessments for the previous policy year, rounded up to the nearest one-half of a percentage point, that shall generate, as nearly as possible, one hundred ten percent of the moneys to be paid from the second injury fund in the following calendar year, less any moneys contained in the fund at the end of the previous calendar year. All policyholders and self-insurers shall be notified by the division of workers' compensation within ten calendar days of the determination of the surcharge percent to be imposed for, and paid in, the following calendar year. The net premium equivalent for individual self-insured employers shall be based on average rate classifications calculated by the department of commerce and insurance as taken from premium rates filed by the twenty insurance companies providing the greatest volume of workers' compensation insurance coverage in this state. For employers qualified to self-insure their liability pursuant to this chapter, the rates filed by such group of employers in accordance with subsection 4 of section 287.280 shall be the net premium equivalent. Any group of political subdivisions of this state qualified to self-insure their liability pursuant to this chapter as authorized by section 537.620 may choose either the average rate classification method or the filed rate method, provided that the method used may only be changed once without receiving the consent of the director of the division of workers' compensation. The director may advance funds from the workers' compensation fund to the second injury fund if surcharge collections prove to be insufficient. Any funds advanced from the workers' compensation fund to the second injury fund must be reimbursed by the second injury fund no later than December thirty-first of the year following the advance. The surcharge shall be collected from policyholders by each insurer at the same time and in the same manner that the premium is collected, but no insurer or its agent shall be entitled to any portion of the surcharge as a fee or commission for its collection. The surcharge is not subject to any taxes, licenses or fees.

3. All surcharge amounts imposed by this section shall be deposited to the credit of the second injury fund.

4. Such surcharge amounts shall be paid quarterly by insurers and self-insurers, and insurers shall pay the amounts not later than the thirtieth day of the month following the end of the quarter in which the amount is received from policyholders. If the director of the division of workers' compensation fails to calculate the surcharge by the thirty-first day of October of any year for the following year, any increase in the surcharge ultimately set by the director shall not be effective for any calendar quarter beginning less than sixty days from the date the director makes such determination.

5. If a policyholder or self-insured fails to make payment of the surcharge or an insurer fails to make timely transfer to the division of surcharges actually collected from policyholders, as required by this section, a penalty of one-half of one percent of the surcharge unpaid, or

untransferred, shall be assessed against the liable policyholder, self-insured or insurer. Penalties assessed under this subsection shall be collected in a civil action by a summary proceeding brought by the director of the division of workers' compensation.

6. Notwithstanding subsection 2 of this section to the contrary, the director of the division of workers' compensation shall collect a supplemental surcharge not to exceed three percent for calendar years 2014 to **[**~~2021~~**] 2022** of the policyholder's or self-insured's workers' compensation net deposits, net premiums, or net assessments for the previous policy year, rounded up to the nearest one-half of a percentage point. **For calendar year 2023, the director of the division of workers' compensation shall collect a supplemental surcharge not to exceed two and one-half percent of the policyholder's or self-insured's workers' compensation net deposits, net premiums, or net assessments for the previous policy year, rounded up to the nearest one-half of a percentage point.** All policyholders and self-insurers shall be notified by the division of the supplemental surcharge percentage to be imposed for such period of time as part of the notice provided in subsection 2 of this section. The provisions of this subsection shall expire on December 31, **[**~~2021~~**] 2023**.

7. Funds collected under the provisions of this chapter shall be the sole funding source of the second injury fund.

303.220. 1. Any religious denomination which has more than twenty-five members with motor vehicles and **[**~~prohibits~~**] discourages** its members from purchasing insurance, of any form, as being contrary to its religious tenets, may qualify as a self-insurer by obtaining a self-insurance certificate issued by the director as provided in subsection 3 of this section.

2. Any person in whose name more than twenty-five motor vehicles are registered may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the director as provided in subsection 3 of this section.

3. The director may, in his discretion, upon the application of any religious denomination or person described in subsection 1 or 2 of this section, issue a certificate of self-insurance when he is satisfied that such religious denomination or person is possessed and will continue to be possessed of the ability to pay judgments obtained against such religious denomination or person.

4. Upon not less than ten days' notice and a hearing pursuant to such notice, the director may, upon reasonable grounds, cancel a certificate of self-insurance. Failure to pay any judgment within thirty days after such judgment shall have become final shall constitute a reasonable ground for the cancellation of a certificate of self-insurance.

319.131. 1. Any owner or operator of one or more petroleum storage tanks may elect to participate in the petroleum storage tank insurance fund to meet the financial responsibility requirements of sections 319.114 and 414.036. Subject to regulations of the board of trustees, owners or operators may elect to continue their participation in the fund subsequent to the

transfer of their property to another party. Current or former refinery sites or petroleum pipeline or marine terminals are not eligible for participation in the fund.

2. The board shall establish an advisory committee which shall be composed of insurers, owners and operators of petroleum storage tanks, and other interested parties. The advisory committee established pursuant to this subsection shall report to the board. The committee shall monitor the fund and recommend statutory and administrative changes as may be necessary to assure efficient operation of the fund. The committee, in consultation with the board and the department of commerce and insurance, shall report every two years to the general assembly on the availability and affordability of the private insurance market as a viable method of meeting the financial responsibilities required by state and federal law in lieu of the petroleum storage tank insurance fund.

3. (1) Except as otherwise provided by this section, any person seeking to participate in the insurance fund shall submit an application to the board of trustees and shall certify that the petroleum tanks meet or exceed and are in compliance with all technical standards established by the United States Environmental Protection Agency, except those standards and regulations pertaining to spill prevention control and counter-measure plans, and rules established by the Missouri department of natural resources and the Missouri department of agriculture. The applicant shall submit proof that the applicant has a reasonable assurance of the tank's integrity. Proof of tank integrity may include but not be limited to any one of the following: tank tightness test, electronic leak detection, monitoring wells, daily inventory reconciliation, vapor test or any other test that may be approved by the director of the department of natural resources or the director of the department of agriculture. The applicant shall submit evidence that the applicant can meet all applicable financial responsibility requirements of this section.

(2) A creditor, specifically a person who, without participating in and not otherwise primarily engaged in petroleum production, refining, and marketing, holds indicia of ownership primarily for the purpose of, or in connection with, securing payment or performance of a loan or to protect a security interest in or lien on the tank or the property where the tank is located, or serves as trustee or fiduciary upon transfer or receipt of the property, may be a successor in interest to a debtor pursuant to this section, provided that the creditor gives notice of the interest to the insurance fund by certified mail, return receipt requested. Part of such notice shall include a copy of the lien, including but not limited to a security agreement or a deed of trust as appropriate to the property. The term "successor in interest" as provided in this section means a creditor to the debtor who had qualified real property in the insurance fund prior to the transfer of title to the creditor, and the term is limited to access to the insurance fund. The creditor may cure any of the debtor's defaults in payments required by the insurance fund, provided the specific real property originally qualified pursuant to this section. The creditor, or the creditor's

subsidiary or affiliate, who forecloses or otherwise obtains legal title to such specific real property held as collateral for loans, guarantees or other credit, and which includes the debtor's aboveground storage tanks or underground storage tanks, or both such tanks shall provide notice to the fund of any transfer of creditor to subsidiary or affiliate. Liability pursuant to sections 319.100 to 319.137 shall be confined to such creditor or such creditor's subsidiary or affiliate. A creditor shall apply for a transfer of coverage and shall present evidence indicating a lien, contractual right, or operation of law permitting such transfer, and may utilize the creditor's affiliate or subsidiary to hold legal title to the specific real property taken in satisfaction of debts. Creditors may be listed as insured or additional insured on the insurance fund, and not merely as mortgagees, and may assign or otherwise transfer the debtor's rights in the insurance fund to the creditor's affiliate or subsidiary, notwithstanding any limitations in the insurance fund on assignments or transfer of the debtor's rights.

(3) Any person participating in the fund shall annually submit an amount established pursuant to subsection 1 of section 319.133 which shall be deposited to the credit of the petroleum storage tank insurance fund.

4. Any person making a claim pursuant to this section and sections 319.129 and 319.133 shall be liable for the first ten thousand dollars of the cost of cleanup associated with a release from a petroleum storage tank without reimbursement from the fund. The petroleum storage tank insurance fund shall assume all costs, except as provided in subsection 5 of this section, which are greater than ten thousand dollars but less than one million dollars per occurrence or two million dollars aggregate per year. The liability of the petroleum storage tank insurance fund is not the liability of the state of Missouri. The provisions of sections 319.100 to 319.137 shall not be construed to broaden the liability of the state of Missouri beyond the provisions of sections 537.600 to 537.610 nor to abolish or waive any defense which might otherwise be available to the state or to any person. The presence of existing contamination at a site where a person is seeking insurance in accordance with this section shall not affect that person's ability to participate in this program, provided the person meets all other requirements of this section. Any person who qualifies pursuant to sections 319.100 to 319.137 and who has requested approval of a project for remediation from the fund, which request has not yet been decided upon shall annually be sent a status report including an estimate of when the project may expect to be funded and other pertinent information regarding the request.

5. The fund shall provide coverage for third-party claims involving property damage or bodily injury caused by leaking petroleum storage tanks whose owner or operator is participating in the fund at the time the release occurs or is discovered. Coverage for third-party property damage or bodily injury shall be in addition to the coverage described in subsection 4 of this section but the total liability of the petroleum storage tank insurance fund for all cleanup costs,

property damage, and bodily injury shall not exceed one million dollars per occurrence or two million dollars aggregate per year. The fund shall not compensate an owner or operator for repair of damages to property beyond that required to contain and clean up a release of a regulated substance or compensate an owner or operator or any third party for loss or damage to other property owned or belonging to the owner or operator, or for any loss or damage of an intangible nature, including, but not limited to, loss or interruption of business, pain and suffering of any person, lost income, mental distress, loss of use of any benefit, or punitive damages.

6. **[**~~The fund shall, within limits specified in this section, assume costs of third-party claims and cleanup of contamination caused by releases from petroleum storage tanks.~~**]** **In addition to other coverage limits in this section,** the fund shall provide the defense of eligible third-party claims including the negotiations of any settlement **and may specify a legal defense cost coverage limit**.

7. Nothing contained in sections 319.100 to 319.137 shall be construed to abrogate or limit any right, remedy, causes of action, or claim by any person sustaining personal injury or property damage as a result of any release from any type of petroleum storage tank, nor shall anything contained in sections 319.100 to 319.137 be construed to abrogate or limit any liability of any person in any way responsible for any release from a petroleum storage tank or any damages for personal injury or property damages caused by such a release.

8. (1) The fund shall provide moneys for cleanup of contamination caused by releases from petroleum storage tanks, the owner or operator of which is participating in the fund or the owner or operator of which has made application for participation in the fund by December 31, 1997, regardless of when such release occurred, provided that those persons who have made application are ultimately accepted into the fund. Applicants shall not be eligible for fund benefits until they are accepted into the fund. This section shall not preclude the owner or operator of petroleum storage tanks coming into service after December 31, 1997, from making application to and participating in the petroleum storage tank insurance fund.

(2) Notwithstanding the provisions of section 319.100 and the provisions of subdivision (1) of this section, the fund shall provide moneys for cleanup of contamination caused by releases from petroleum storage tanks owned by school districts all or part of which are located in a county of the third classification without a township form of government and having a population of more than ten thousand seven hundred but less than eleven thousand inhabitants, and which make application for participation in the fund by August 28, 1999, regardless of when such release occurred. Applicants shall not be eligible for fund benefits until they are accepted into the fund, and costs incurred prior to that date shall not be eligible expenses.

9. (1) The fund shall provide moneys for cleanup of contamination caused by releases from underground storage tanks which contained petroleum and which have been taken out of use prior to December 31, 1997, provided such sites have been documented by or reported to the department of natural resources prior to December 31, 1997, and provided further that the fund shall make no reimbursements for expenses incurred prior to August 28, 1995. The fund shall also provide moneys for cleanup of contamination caused by releases from underground storage tanks which contained petroleum and which have been taken out of use prior to December 31, 1985, if the current owner of the real property where the tanks are located purchased such property before December 31, 1985, provided such sites are reported to the fund on or before June 30, 2000. The fund shall make no payment for expenses incurred at such sites prior to August 28, 1999. Nothing in sections 319.100 to 319.137 shall affect the validity of any underground storage tank fund insurance policy in effect on August 28, 1996.

(2) An owner or operator who submits a request as provided in this subsection is not required to bid the costs and expenses associated with professional environmental engineering services. The board may disapprove all or part of the costs and expenses associated with the environmental engineering services if the costs are excessive based upon comparable service costs or current market value of similar services. The owner or operator shall solicit bids for actual remediation and cleanup work as provided by rules of the board.

(3) After December 31, 2017, the current legal owner of the site shall be the responsible party for corrective action, pursuant to section 319.109, of any releases from underground storage tanks described in this subsection, provided the creditor, who is a successor in interest as provided in subdivision (2) of subsection 3 of this section, is subject to no greater or lesser responsibility for corrective action than such successor in interest would have on or before December 31, 2017. Nothing in this subdivision shall in any way be construed to alter, alleviate, or modify in any manner any liabilities that the fund has to pay for in cleaning up the site.

10. (1) The fund shall provide moneys for cleanup of contamination caused by releases from aboveground storage tanks utilized for the sale of products regulated by chapter 414 which have been taken out of use prior to December 31, 1997, provided such sites have been documented by or reported to the department of natural resources prior to December 31, 1997, and provided further that the fund shall make no reimbursements for expenses incurred prior to July 1, 1997.

(2) After December 31, 2017, the current legal owner of the site shall be the responsible party for corrective action of any releases from aboveground storage tanks described in this subsection, provided the creditor, who is a successor in interest as provided in subdivision (2) of subsection 3 of this section, is subject to no greater or lesser responsibility for corrective action than such successor in interest would have on or before December 31, 2017. Nothing in

this subdivision shall in any way be construed to alter, alleviate, or modify in any manner any liabilities that the fund has to pay for in cleaning up the site.

375.029. 1. As used in this section, the following terms mean:

(1) "Director", the director of the department of commerce and insurance;

(2) "Insurance producer", a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.

2. (1) Subject to approval by the director, an insurance producer's active participation as an individual member or employee of a business entity producer member of a local, regional, state, or national professional insurance association may be approved for up to four hours of continuing education credit per each biennial reporting period.

(2) An insurance producer shall not use continuing education credit granted under this section to satisfy continuing education hours required to be completed in a classroom or classroom-equivalent setting, or to satisfy any continuing education ethics requirements.

(3) The continuing education hours referenced in subdivision (1) of subsection 2 of this section shall be credited upon the timely filing with the director by the insurance producer of an appropriate written statement in a form acceptable to the director, or by a certification from the local, regional, state, or national professional insurance association through written form or electronic filing acceptable to the director.

3. The director may promulgate all necessary rules and regulations for the administration of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2021, shall be invalid and void.

375.246. 1. Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a reduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of subdivisions (1) **[**~~to~~**], (2), (3), (4), (5),** (6)**, or (7)** of this subsection**; provided further, that the director may adopt by rule under subdivision (2) of subsection 4 of this section specific additional requirements relating to or setting forth the valuation of assets or reserve credits, the amount and forms of security supporting reinsurance arrangements described in subdivision (2) of subsection 4 of this section, or the circumstances under which credit will be reduced or eliminated**. Credit shall be allowed pursuant to subdivision (1), (2) or (3) of this subsection only as respects cessions of those kinds

or classes of business which the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile or, in the case of a United States branch of an alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance. Credit shall be allowed pursuant to subdivision (3), (4), or (5) of this subsection only if the applicable requirements of subdivision **[**~~(7)~~**] (8)** have been satisfied.

(1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is licensed to transact insurance in this state;

(2) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is accredited by the director as a reinsurer in this state. In order to be eligible for accreditation, a reinsurer shall:

(a) File with the director evidence of its submission to this state's jurisdiction;

(b) Submit to the authority of the department of commerce and insurance to examine its books and records;

(c) Be licensed to transact insurance or reinsurance in at least one state, or in the case of a United States branch of an alien assuming insurer is entered through and licensed to transact insurance or reinsurance in at least one state;

(d) File annually with the director a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement; and

(e) Demonstrate to the satisfaction of the director that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. An assuming insurer is deemed to meet such requirement as of the time of its application if it maintains a surplus regarding policyholders in an amount not less than twenty million dollars and its accreditation has not been denied by the director within ninety days after submission of its application;

(3) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is domiciled in, or in the case of a United States branch of an alien assuming insurer is entered through, a state that employs standards regarding credit for reinsurance substantially similar to those applicable under this statute and the assuming insurer or United States branch of an alien assuming insurer:

(a) Maintains a surplus as regards policyholders in an amount not less than twenty million dollars; except that this paragraph does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system; and

(b) Submits to the authority of the department of commerce and insurance to examine its books and records;

(4) (a) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution, as defined in subdivision

(2) of subsection 3 of this section, for the payment of the valid claims of its United States ceding insurers, their assigns and successors in interest. To enable the director to determine the sufficiency of the trust fund, the assuming insurer shall report annually to the director information substantially the same as that required to be reported on the National Association of Insurance Commissioners' annual statement form by licensed insurers. The assuming insurer shall submit to examination of its books and records by the director.

(b) Credit for reinsurance shall not be granted pursuant to this subdivision unless the form of the trust and any amendments to the trust have been approved by:

a. The commissioner or director of the state agency regulating insurance in the state where the trust is domiciled; or

b. The commissioner or director of another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust.

(c) The form of the trust and any trust amendments shall also be filed with the commissioner or director in every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in its trustees for the benefit of the assuming insurer's United States ceding insurers, their assigns and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the director.

(d) The trust shall remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust. No later than February twenty-eighth of each year the trustees of the trust shall report to the director in writing the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust will not expire prior to the next following December thirty-first.

(e) The following requirements apply to the following categories of assuming insurers:

a. The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by the United States ceding insurers, and, in addition, the assuming insurer shall maintain a trusteed surplus of not less than twenty million dollars, except as provided in subparagraph b. of this paragraph;

b. At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the director with principal regulator oversight of the trust may authorize a reduction in the required trusteed surplus, but only after a finding based on an assessment of risk that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review,

including an independent analysis of reserves and cash flows, and shall consider all material risk factors including, when applicable, the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trusteed surplus shall not be reduced to an amount less than thirty percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust;

c. In the case of a group of incorporated and individual unincorporated underwriters:

(i) For reinsurance ceded under reinsurance agreements with an inception, amendment or renewal date on or after January 1, 1993, the trust shall consist of a trusteed account in an amount not less than the respective underwriter's several liabilities attributable to business ceded by United States domiciled ceding insurers to any underwriter of the group;

(ii) For reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed after that date, notwithstanding the other provisions of this section, the trust shall consist of a trustee account in an amount not less than the respective underwriter's several insurance and reinsurance liabilities attributable to business in the United States; and

(iii) In addition to these trusts, the group shall maintain in trust a trusteed surplus of which one hundred million dollars shall be held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account;

d. The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members;

e. Within ninety days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the director an annual certification by the group's domiciliary regulator of the solvency of each underwriter member; or if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the group;

(5) (a) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that has been certified by the director as a reinsurer in this state and secures its obligations in accordance with the requirements of this subdivision.

(b) In order to be eligible for certification, the assuming insurer shall meet the following requirements:

a. The assuming insurer shall be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the director under paragraph (d) of this subdivision;

b. The assuming insurer shall maintain minimum capital and surplus, or its equivalent, in an amount to be determined by the director by rule;

c. The assuming insurer shall maintain financial strength ratings from two or more rating agencies deemed acceptable by the director by rule;

d. The assuming insurer shall agree to submit to the jurisdiction of this state, appoint the director as its agent for service of process in this state, and agree to provide security for one hundred percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if it resists enforcement of a final United States judgment;

e. The assuming insurer shall agree to meet applicable information filing requirements as determined by the director, both with respect to an initial application for certification and on an ongoing basis; and

f. The assuming insurer shall satisfy any other requirements for certification deemed relevant by the director.

(c) An association including incorporated and individual unincorporated underwriters may be a certified reinsurer. To be eligible for certification, in addition to satisfying requirements of paragraph (b) of this subdivision:

a. The association shall satisfy its minimum capital and surplus requirements through the capital and surplus equivalents (net of liabilities) of the association and its members, which shall include a joint central fund that may be applied to any unsatisfied obligation of the association or any of its members, in an amount determined by the director to provide adequate protection;

b. The incorporated members of the association shall not be engaged in any business other than underwriting as a member of the association and shall be subject to the same level of regulation and solvency control by the association's domiciliary regulator as are the unincorporated members; and

c. Within ninety days after its financial statements are due to be filed with the association's domiciliary regulator, the association shall provide to the director:

(i) An annual certification by the association's domiciliary regulator of the solvency of each underwriter member; or

(ii) If a certification is unavailable, financial statements prepared by independent public accountants of each underwriter member of the association.

(d) a. The director shall create and publish a list of qualified jurisdictions, under which an assuming insurer licensed and domiciled in such jurisdiction is eligible to be considered for certification by the director as a certified reinsurer.

b. To determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the director shall evaluate the

appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits, and extent of reciprocal recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled in the United States. A qualified jurisdiction shall agree to share information and cooperate with the director with respect to all certified reinsurers domiciled within that jurisdiction. A jurisdiction shall not be recognized as a qualified jurisdiction if the director has determined that the jurisdiction does not adequately and promptly enforce final United States judgments and arbitration awards. Additional factors may be considered at the discretion of the director.

c. The director may consider a list of qualified jurisdictions published by the National Association of Insurance Commissioners (NAIC) in determining qualified jurisdictions for the purposes of this section. If the director approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the director shall provide thoroughly documented justification in accordance with criteria to be developed by rule.

d. United States jurisdictions that meet the requirement for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions.

e. If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the director has the discretion to suspend the reinsurer's certification indefinitely, in lieu of revocation.

(e) The director shall assign a rating to each certified reinsurer, giving due consideration to the financial strength ratings that have been assigned by rating agencies deemed acceptable to the director by rule. The director shall publish a list of all certified reinsurers and their ratings.

(f) a. A certified reinsurer shall secure obligations assumed from United States ceding insurers under this subdivision at a level consistent with its rating, as specified in regulations promulgated by the director.

b. For a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security in a form acceptable to the director and consistent with the provisions of this section or in a multibeneficiary trust in accordance with paragraph (e) of subdivision (4) of this subsection, except as otherwise provided in this subdivision.

c. If a certified reinsurer maintains a trust to fully secure its obligations under paragraph (d) of subdivision (4) of this subsection and chooses to secure its obligations incurred as a certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer shall maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this subsection or comparable laws of other United States jurisdictions and for its obligations subject to paragraph (e) of subdivision (4) of this subsection. It shall be a condition to the grant of certification under

this section that the certified reinsurer shall have bound itself, by the language of the trust and agreement with the director with principal regulatory oversight of each such trust account, to fund, upon termination of any such trust account, out of the remaining surplus of such trust any deficiency of any other such trust account.

d. The minimum trusteed surplus requirements provided in paragraph (e) of subdivision (4) of this subsection are not applicable with respect to a multibeneficiary trust maintained by a certified reinsurer for the purpose of securing obligations incurred under this paragraph, except that such trust shall maintain a minimum trusteed surplus of ten million dollars.

e. With respect to obligations incurred by a certified reinsurer under this paragraph, if the security is insufficient, the director shall order the certified reinsurer to provide sufficient security for such incurred obligations within thirty days. If a certified reinsurer does not provide sufficient security for its obligations incurred under this subsection within thirty days of being ordered to do so by the director, the director has the discretion to allow credit in the amount of the required security for one year. Following this one-year period, the director shall impose reductions in allowable credit upon finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due.

f. (i) For purposes of this paragraph, a certified reinsurer whose certification has been terminated for any reason shall be treated as a certified reinsurer required to secure one hundred percent of its obligations.

(ii) As used in this subparagraph, the term "terminated" refers to revocation, suspension, voluntary surrender, and inactive status.

(iii) If the director continues to assign a higher rating as permitted by other provisions of this subdivision, this requirement does not apply to a certified reinsurer in inactive status or to a reinsurer whose certification has been suspended.

g. If an applicant for certification has been certified as a reinsurer in an NAIC-accredited jurisdiction, the director has the discretion to defer to that jurisdiction's certification and to the rating assigned by that jurisdiction, and such assuming insurer shall be considered to be a certified reinsurer in this state.

h. A certified reinsurer that ceases to assume new business in this state may request to maintain its certification in inactive status in order to continue to qualify for a reduction in security for its in-force business. An inactive certified reinsurer shall continue to comply with all applicable requirements of this subsection, and the director shall assign a rating that takes into account, if relevant, the reasons why the reinsurer is not assuming new business.

(6) **Credit:**

(a) Shall be allowed when the reinsurance is ceded to an assuming insurer meeting each of the conditions set forth below:

a. The assuming insurer shall have its head office or be domiciled in, as applicable, and be licensed in a reciprocal jurisdiction. A "reciprocal jurisdiction" is a jurisdiction that meets one of the following:

(i) A non-United States jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and European Union, is a member state of the European Union. For purposes of this subdivision, a "covered agreement" is an agreement entered into pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C. Sections 313 and 314, that is currently in effect or in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this state or for allowing the ceding insurer to recognize credit for reinsurance;

(ii) A United States jurisdiction that meets the requirements for accreditation under the NAIC financial standards and accreditation program; or

(iii) A qualified jurisdiction, as determined by the director pursuant to paragraph (d) of subdivision (5) of this subsection, which is not otherwise described in item (i) or (ii) of this subparagraph and which meets certain additional requirements, consistent with the terms and conditions of in-force covered agreements, as specified by the director by rule.

b. The assuming insurer shall have and maintain, on an ongoing basis, minimum capital and surplus, or its equivalent, calculated according to the methodology of its domiciliary jurisdiction, in an amount to be set forth by rule. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it shall have and maintain, on an ongoing basis, minimum capital and surplus equivalents (net of liabilities) calculated according to the methodology applicable to its domiciliary jurisdiction, and a central fund containing a balance in amounts to be set forth by rule.

c. The assuming insurer shall have and maintain, on an ongoing basis, a minimum solvency or capital ratio, as applicable, which shall be set forth by rule. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it shall have and maintain, on an ongoing basis, a minimum solvency or capital ratio in the reciprocal jurisdiction where the assuming insurer has its head office or is domiciled, as applicable, and is also licensed.

d. The assuming insurer shall agree and provide adequate assurance to the director, in a form specified by the director by rule, as follows:

(i) The assuming insurer shall provide prompt written notice and explanation to the director if it falls below the minimum requirements set forth in subparagraphs b. or

c. of this paragraph, or if any regulatory action is taken against it for serious noncompliance with applicable law;

(ii) The assuming insurer shall consent in writing to the jurisdiction of the courts of this state and to the appointment of the director as agent for service of process. The director may require that consent for service of process be provided to the director and included in each reinsurance agreement. Nothing in this provision shall limit, or in any way alter, the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws;

(iii) The assuming insurer shall consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer or its legal successor, that have been declared enforceable in the jurisdiction where the judgment was obtained;

(iv) Each reinsurance agreement shall include a provision requiring the assuming insurer to provide security in an amount equal to one hundred percent of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by its legal successor on behalf of its resolution estate; and

(v) The assuming insurer shall confirm that it is not presently participating in any solvent scheme of arrangement which involves this state's ceding insurers, and agree to notify the ceding insurer and the director and to provide security in an amount equal to one hundred percent of the assuming insurer's liabilities to the ceding insurer, should the assuming insurer enter into such a solvent scheme of arrangement. Such security shall be in a form consistent with the provisions of subdivision (5) of this subsection and subsection 2 of this section and as specified by the director by rule.

e. The assuming insurer or its legal successor shall provide, if requested by the director, on behalf of itself and any legal predecessors, certain documentation to the director, as specified by the director by rule.

f. The assuming insurer shall maintain a practice of prompt payment of claims under reinsurance agreements, pursuant to criteria set forth by rule.

g. The assuming insurer's supervisory authority shall confirm to the director on an annual basis, as of the preceding December thirty-first or at the annual date otherwise statutorily reported to the reciprocal jurisdiction that the assuming insurer complies with the requirements set forth in subparagraphs b. and c. of this paragraph.

h. Nothing in this subdivision precludes an assuming insurer from providing the director with information on a voluntary basis.

(b) The director shall timely create and publish a list of reciprocal jurisdictions.

a. A list of reciprocal jurisdictions is published through the NAIC committee process. The director's list shall include any reciprocal jurisdiction as defined under items (i) and (ii) of subparagraph a. of paragraph (a) of this subdivision, and shall consider any other reciprocal jurisdiction included on the NAIC list. The director may approve a jurisdiction that does not appear on the NAIC list of reciprocal jurisdictions in accordance with criteria to be developed under rules promulgated by the director.

b. The director may remove a jurisdiction from the list of reciprocal jurisdictions upon a determination that the jurisdiction no longer meets the requirements of a reciprocal jurisdiction, in accordance with a process set forth by rule promulgated by the director, except that the director shall not remove from the list a reciprocal jurisdiction as defined under item (i) and (ii) of subparagraph a. of paragraph (a) of this subdivision. Upon removal of a reciprocal jurisdiction from this list credit for reinsurance ceded to an assuming insurer which has its home office or is domiciled in that jurisdiction shall be allowed, if otherwise allowed under this section.

(c) The director shall timely create and publish a list of assuming insurers that have satisfied the conditions set forth in this subdivision and to which cessions shall be granted credit in accordance with this subdivision. The director may add an assuming insurer to such list if an NAIC accredited jurisdiction has added such assuming insurer to a list of such assuming insurers or if, upon initial eligibility, the assuming insurer submits the information to the director as required under subparagraph d. of paragraph (a) of this subdivision and complies with any additional requirements that the director may adopt by rule, except to the extent that they conflict with an applicable covered agreement.

(d) If the director determines that an assuming insurer no longer meets one or more of the requirements under this subdivision, the director may revoke or suspend the eligibility of the assuming insurer for recognition under this subdivision in accordance with procedures set forth by rule.

a. While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended, or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer's obligations under the contract are secured in accordance with subsection 2 of this section.

b. If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements

entered into prior to the date of revocation, except to the extent that the assuming insurer's obligations under the contract are secured in a form acceptable to the director and consistent with the provisions of subsection 2 of this section.

(e) If subject to a legal process of rehabilitation, liquidation, or conservation, as applicable, the ceding insurer, or its representative, may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring that the assuming insurer post security for all outstanding ceded liabilities.

(f) Nothing in this subdivision shall limit or in any way alter the capacity of parties to a reinsurance agreement to agree on requirements for security or other terms in that reinsurance agreement, except as expressly prohibited by this section or other applicable law or regulation.

(g) Credit may be taken under this subdivision only for reinsurance agreements entered into, amended, or renewed on or after December 31, 2021, and only with respect to losses incurred and reserves reported on or after the later of: the date on which the assuming insurer has met all eligibility requirements under paragraph (a) of this subdivision; or the effective date of the new reinsurance agreement, amendment, or renewal.

a. This paragraph shall not alter or impair a ceding insurer's right to take credit for reinsurance, to the extent that credit is not available under this subdivision, as long as the reinsurance qualifies for credit under any other applicable provision of this section.

b. Nothing in this subdivision shall authorize an assuming insurer to withdraw or reduce the security provided under any reinsurance agreement except as permitted by the terms of the agreement.

c. Nothing in this subdivision shall limit, or in any way alter, the capacity of parties to any reinsurance agreement to renegotiate the agreement.

(7) Credit:

(a) Shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of subdivision (1), (2), (3), (4), **[**~~or~~**]** (5)**, or (6)** of this subsection, but only as to the insurance of risks located in a jurisdiction of the United States where the reinsurance is required by applicable law or regulation of that jurisdiction;

(b) May be allowed in the discretion of the director when the reinsurance is ceded to an assuming insurer not meeting the requirements of subdivision (1), (2), (3), (4), **[**~~or~~**]** (5)**, or (6)** of this subsection, but only as to the insurance of risks located in a foreign country where the reinsurance is required by applicable law or regulation of that country;

[~~(7)~~**]** **(8)** If the assuming insurer is not licensed, accredited, or certified to transact insurance or reinsurance in this state, the credit permitted by subdivisions (3) and (4) of this subsection shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(a) That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer shall submit to the jurisdiction of the courts of this state, will comply with all requirements necessary to give such courts jurisdiction, and will abide by the final decisions of such courts or of any appellate courts in this state in the event of an appeal; and

(b) To designate the director or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the ceding insurer. This paragraph is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if this obligation is created in the agreement and the jurisdiction and situs of the arbitration is, with respect to any receivership of the ceding company, any jurisdiction of the United States;

[~~(8)~~**]** **(9)** If the assuming insurer does not meet the requirements of subdivision (1), (2) or (3) of this subsection, the credit permitted by subdivision (4) or (5) of this subsection shall not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

(a) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by paragraph (e) of subdivision (4) of this subsection, or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the commissioner or director with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner or director with regulatory oversight all of the assets of the trust fund;

(b) The assets shall be distributed by and claims shall be filed with and valued by the commissioner or director with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies;

(c) If the commissioner or director with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the assets or part thereof shall be returned by the commissioner or director with regulatory oversight to the trustee for distribution in accordance with the trust agreement; and

(d) The grantor shall waive any right otherwise available to it under United States law that is inconsistent with this subsection.

[~~(9)~~**] (10)** (a) If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification, the director may suspend or revoke the reinsurer's accreditation or certification.

(b) The director shall give the reinsurer notice and opportunity for a hearing. The suspension or revocation shall not take effect until after the director's order on hearing, unless:

a. The reinsurer waives its right to hearing;

b. The director's order is based on regulatory action by the reinsurer's domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state of the reinsurer under subdivision (5) of this subsection; or

c. The director finds that an emergency requires immediate action, and a court of competent jurisdiction has not stayed the commissioner's action.

(c) While a reinsurer's accreditation or certification is suspended, no reinsurance contract issued or renewed after the effective date of the suspension qualifies for credit except to the extent that the reinsurer's obligations under the contract are secured in accordance with subdivision (5) of this subsection or subsection 2 of this section. If a reinsurer's accreditation or certification is revoked, no credit for reinsurance shall be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the contract are secured in accordance with subdivision (5) of this subsection or subsection 2 of this section.

[~~(10)~~**] (11)** (a) A ceding insurer shall take steps to manage its reinsurance recoverables proportionate to its own book of business. A domestic ceding insurer shall notify the director within thirty days after reinsurance recoverables from any single assuming insurer or group of affiliated assuming insurers exceeds fifty percent of the domestic ceding insurer's last reported surplus to policyholders or after it is determined that reinsurance recoverables from any single assuming insurer or group of affiliated assuming insurers is likely to exceed such limit. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

(b) A ceding insurer shall take steps to diversify its reinsurance program. A domestic ceding insurer shall notify the director within thirty days after ceding to any single assuming insurer or group of affiliated assuming insurers more than twenty percent of the ceding insurer's gross written premium in the prior calendar year or after it has determined that the reinsurance ceded to any single assuming insurer or group of affiliated assuming insurers is likely to exceed such limit. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

2. An asset or reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of subsection 1 of this section shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer**; provided further, that the director may adopt by rule pursuant to subdivision (2) of subsection 4 of this section specific additional requirements relating to or setting forth the valuation of assets or reserve credits, the amount and forms of security supporting reinsurance arrangements described in subdivision (2) of subsection 4 of this section, or the circumstances under which credit will be reduced or eliminated**. The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations thereunder, if the security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified United States financial institution, as defined in subdivision (2) of subsection 3 of this section. This security may be in the form of:

(1) Cash;

(2) Securities listed by the securities valuation office of the National Association of Insurance Commissioners, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the Securities Valuation Office, and qualifying as admitted assets;

(3) (a) Clean, irrevocable, unconditional letters of credit issued or confirmed by a qualified United States financial institution, as defined in subdivision (1) of subsection 3 of this section, no later than December thirty-first of the year for which filing is being made, and in the possession of, or in trust for, the ceding insurer on or before the filing date of its annual statement.

(b) Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, shall continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs;

(4) Any other form of security acceptable to the director.

3. (1) For purposes of subdivision (3) of subsection 2 of this section, a "qualified United States financial institution" means an institution that:

(a) Is organized or, in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any state thereof;

(b) Is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies; and

(c) Has been determined by either the director, or the securities valuation office of the National Association of Insurance Commissioners, to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the director.

(2) A "qualified United States financial institution" means, for purposes of those provisions of this law specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that:

(a) Is organized, or in the case of a United States branch or agency office of a foreign banking organization, licensed under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers; and

(b) Is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies.

4. **(1)** The director may adopt rules and regulations implementing the provisions of this section.

(2) The director is further authorized to adopt rules and regulations applicable to reinsurance arrangements described in paragraph (a) of this subdivision.

(a) A rule adopted under this subdivision may apply only to reinsurance relating to:

a. Life insurance policies with guaranteed nonlevel 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 adopts model regulatory requirements with respect to credit for reinsurance.

(b) A rule adopted under subparagraphs a. or b. of paragraph (a) of this subdivision may apply to any treaty containing policies issued on or after January 1, 2015, or policies issued prior to January 1, 2015, if risk pertaining to such pre-2015 policies is ceded in connection with the treaty, in whole or in part, on or after January 1, 2015.

(c) A rule adopted under this subdivision may require the ceding insurer, in calculating the amounts or forms of security required to be held under rules promulgated under this authority, to use the valuation manual adopted in accordance with subsection 6 of section 376.380, including all amendments adopted thereto and in effect on the date as of which the calculation is made, to the extent applicable.

(d) A regulation adopted under this subdivision shall not apply to cessions to an assuming insurer that:

a. Meets the conditions set forth in subdivision (6) of subsection 1 of this section, or if this state has not fully implemented provisions substantially equivalent to subdivision (6) of subsection 1 of this section by rule or otherwise, the assuming insurer is operating in accordance with provisions substantially equivalent to subdivision (6) of subsection 1 of this section in a minimum of five other states;

b. Is certified in this state; or

c. Maintains at least two hundred fifty million dollars in capital and surplus when determined in accordance with the NAIC Accounting Practices and Procedures Manual, including all amendments thereto adopted by the NAIC, excluding the impact of any permitted or prescribed practices, and is:

(i) Licensed in at least twenty-six states; or

(ii) Licensed in at least ten states, and licensed or accredited in a total of at least thirty-five states.

(e) The authority to adopt regulations under this subdivision does not limit the director's general authority to adopt regulations under subdivision (1) of this subsection.

5. (1) The director shall disallow any credit as an asset or as a deduction from liability for any reinsurance found by him to have been arranged for the purpose principally of deception as to the ceding company's financial condition as of the date of any financial statement of the company. Without limiting the general purport of this provision, reinsurance of any substantial part of the company's outstanding risks contracted for in fact within four months prior to the date of any such financial statement and cancelled in fact within four months after the date of such statement, or reinsurance under which the assuming insurer bears no substantial insurance risk or substantial risk of net loss to itself, shall prima facie be deemed to have been arranged for the purpose principally of deception within the intent of this provision.

(2) (a) The director shall also disallow as an asset or deduction from liability to any ceding insurer any credit for reinsurance unless the reinsurance is payable to the ceding company, and if it be insolvent to its receiver, by the assuming insurer on the basis of the liability of the ceding company under the contracts reinsured without diminution because of the insolvency of the ceding company.

(b) Such payments shall be made directly to the ceding insurer or to its domiciliary liquidator except:

a. Where the contract of insurance or reinsurance specifically provides for payment to the named insured, assignee or named beneficiary of the policy issued by the ceding insurer in the event of the insolvency of the ceding insurer; or

b. Where the assuming insurer, with the consent of it and the direct insured or insureds in an assumption reinsurance transaction subject to sections 375.1280 to 375.1295, has assumed such policy obligations of the ceding insurer as direct obligations of the assuming insurer to the payees under such policies and in substitution for the obligations of the ceding insurer to such payees.

(c) Notwithstanding paragraphs (a) and (b) of this subdivision, in the event that a life and health insurance guaranty association has made the election to succeed to the rights and obligations of the insolvent insurer under the contract of reinsurance, then the reinsurer's liability to pay covered reinsured claims shall continue under the contract of reinsurance, subject to the payment to the reinsurer of the reinsurance premiums for such coverage. Payment for such reinsured claims shall only be made by the reinsurer pursuant to the direction of the guaranty association or its designated successor. Any payment made at the direction of the guaranty association or its designated successor by the reinsurer will discharge the reinsurer of all further liability to any other party for such claim payment.

(d) The reinsurance agreement may provide that the domiciliary liquidator of an insolvent ceding insurer shall give written notice to the assuming insurer of the pendency of a claim against such ceding insurer on the contract reinsured within a reasonable time after such claim is filed in the liquidation proceeding. During the pendency of such claim, any assuming insurer may investigate such claim and interpose, at its own expense, in the proceeding where such claim is to be adjudicated any defenses which it deems available to the ceding insurer, or its liquidator. Such expense may be filed as a claim against the insolvent ceding insurer to the extent of a proportionate share of the benefit which may accrue to the ceding insurer solely as a result of the defense undertaken by the assuming insurer. Where two or more assuming insurers are involved in the same claim and a majority in interest elect to interpose a defense to such claim, the expense shall be apportioned in accordance with the terms of the reinsurance agreement as though such expense had been incurred by the ceding insurer.

6. To the extent that any reinsurer of an insurance company in liquidation would have been required under any agreement pertaining to reinsurance to post letters of credit or other security prior to an order of liquidation to cover such reserves reflected upon the last financial statement filed with a regulatory authority immediately prior to receivership, such reinsurer shall be required to post letters of credit or other security to cover reserves after a company has been placed in liquidation or receivership. If a reinsurer shall fail to post letters of credit or other security as required by a reinsurance agreement or the provisions of this subsection, the director may consider disallowing as a credit or asset, in whole or in part, any future reinsurance ceded to such reinsurer by a ceding insurance company that is incorporated under the laws of the state of Missouri.

7. The provisions of section 375.420 shall not apply to any action, suit or proceeding by a ceding insurer against an assuming insurer arising out of a contract of reinsurance effectuated in accordance with the laws of Missouri.

8. Notwithstanding any other provision of this section, a domestic insurer may take credit for reinsurance ceded either as an asset or a reduction from liability only to the extent such credit is allowed by the consistent application of either applicable statutory accounting principles adopted by the NAIC or other accounting principles approved by the director.

9. The director may suspend the accreditation, approval, or certification under subsection 1 of this section of any reinsurer for failure to comply with the applicable requirements of subsection 1 of this section after providing the affected reinsurer with notice and opportunity for hearing.

376.1109. 1. The director may adopt regulations that include standards for full and fair disclosure setting forth the manner, content and required disclosures for the sale of long-term care insurance policies, terms of renewability, initial and subsequent conditions of eligibility, nonduplication of coverage provisions, coverage of dependents, preexisting conditions, termination of insurance, continuation or conversion, probationary periods, limitations, exceptions, reductions, elimination periods, requirements for replacement, recurrent conditions and definitions of terms. Regulations adopted pursuant to sections 376.1100 to 376.1130 shall be in accordance with the provisions of chapter 536.

2. No long-term care insurance policy may:

(1) Be cancelled, nonrenewed or otherwise terminated on the grounds of the age or the deterioration of the mental or physical health of the insured individual or certificate holder; or

(2) Contain a provision establishing a new waiting period in the event existing coverage is converted to or replaced by a new or other form within the same company, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder; or

(3) Provide coverage for skilled nursing care only or provide significantly more coverage for skilled care in a facility than for lower levels of care.

3. No long-term care insurance policy or certificate other than a policy or certificate thereunder issued to a group as defined in paragraph (a) of subdivision (4) of subsection 2 of section 376.1100:

(1) Shall use a definition of preexisting condition which is more restrictive than the following: "Preexisting condition" means a condition for which medical advice or treatment was recommended by, or received from, a provider of health care services, within six months preceding the effective date of coverage of an insured person;

(2) May exclude coverage for a loss or confinement which is the result of a preexisting condition unless such loss or confinement begins within six months following the effective date of coverage of an insured person.

4. The director may extend the limitation periods set forth in subdivisions (1) and (2) of subsection 3 of this section as to specific age group categories in specific policy forms upon findings that the extension is in the best interest of the public.

5. The definition of preexisting condition provided in subsection 3 of this section does not prohibit an insurer from using an application form designed to elicit the complete health history of an applicant, and, on the basis of the answers on that application, from underwriting in accordance with that insurer's established underwriting standards. Unless otherwise provided in the policy or certificate, a preexisting condition, regardless of whether it is disclosed on the application, need not be covered until the waiting period described in subdivision (2) of subsection 3 of this section expires. No long-term care insurance policy or certificate may exclude or use waivers or riders of any kind to exclude, limit or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions beyond the waiting period described in subdivision (2) of subsection 3 of this section.

6. No long-term care insurance policy may be delivered or issued for delivery in this state if such policy:

(1) Conditions eligibility for any benefits on a prior hospitalization requirement; or

(2) Conditions eligibility for benefits provided in an institutional care setting on the receipt of a higher level of institutional care; or

(3) Conditions eligibility for any benefits other than waiver of premium, post-confinement, post-acute care or recuperative benefits on a prior institutionalization requirement.

7. A long-term care insurance policy containing post-confinement, post-acute care or recuperative benefits shall clearly label in a separate paragraph of the policy or certificate entitled "Limitations or Conditions on Eligibility for Benefits" such limitations or conditions, including any required number of days of confinement.

8. A long-term care insurance policy or rider which conditions eligibility of noninstitutional benefits on the prior receipt of institutional care shall not require a prior institutional stay of more than thirty days.

9. No long-term care insurance policy or rider which provides benefits only following institutionalization shall condition such benefits upon admission to a facility for the same or related conditions within a period of less than thirty days after discharge from the institution.

10. The director may adopt regulations establishing loss ratio standards for long-term care insurance policies provided that a specific reference to long-term care insurance policies is contained in the regulation.

11. Long-term care insurance applicants shall have the right to return the policy or certificate within thirty days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason. Long-term care insurance policies and certificates shall have a notice prominently printed on the first page or attached thereto stating in substance that the applicant shall have the right to return the policy or certificate within thirty days of its delivery and to have the premium refunded if, after examination of the policy or certificate, other than a certificate issued pursuant to a policy issued to a group defined in paragraph (a) of subdivision (4) of subsection 2 of section 376.1100, the applicant is not satisfied for any reason. This subsection shall also apply to denials of applications and any refund must be made within thirty days of the return or denial.

12. (1) If a long-term care insurance policy issued, delivered, or renewed in this state on or after January 1, 2011, is cancelled for any reason, the insurer shall refund the unearned portion of any premium paid beyond the month in which the cancellation is effective. Any refund shall be returned to the policyholder within twenty days from the date the insurer receives notice of the cancellation. Long-term care insurance policies and certificates shall have a notice prominently printed on the first page or attached thereto stating in substance that the applicant shall be entitled to a refund of the unearned premium if the policy is cancelled for any reason.

(2) The policyholder may notify the insurer of cancellation of such long-term care insurance policy at any time by sending written or electronic notification.

13. No long-term care insurance policy shall increase premium rates, measured annually, in excess of the amount that is actuarially justified based on credible experience, and on the rate basis in effect in this state without recognition of rates that may be in effect in other states.

376.1551. 1. As used in this section, the following terms mean:

(1) "Health benefit plan", the same meaning given to the term in section 376.1350;

(2) "Health carrier", the same meaning given to the term in section 376.1350;

(3) "Mental health condition", the same meaning given to the term in section 376.1550.

2. Notwithstanding any other provision of law to the contrary, each health carrier that offers or issues health benefit plans that are delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2022, and that provide coverage for a mental health condition shall meet the requirements of the Mental Health Parity and Addiction Equity Act of 2008, 42 U.S.C. Section 300gg-26, as amended, and the regulations promulgated thereunder. The director may enforce such requirements subject to the provisions of this section.

3. The provisions of this section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, hospitalization-surgical care policy, short-term major medical policy of twelve months' or less duration, a health benefit plan in the small group market that was issued before January 1, 2014, or a health benefit plan in the individual market that was purchased before January 1, 2014, or any other supplemental policy as determined by the director of the department of commerce and insurance.

4. The director may promulgate rules to effectuate the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2021, shall be invalid and void.

376.2080. 1. As used in this chapter and chapter 375, the term "funding agreement" means an agreement for an insurer to accept and accumulate funds and to make one or more payments at future dates in amounts that are not based on mortality or morbidity contingencies of the person to whom the funding agreement is issued. A funding agreement shall not be deemed to constitute a security, as such term is defined in section 409.1-102.

2. A life insurance company formed under this chapter may issue funding agreements. The issuance of a funding agreement shall be deemed to be doing insurance business.

3. The director may promulgate rules as necessary for the implementation of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2021, shall be invalid and void.

379.120. **1.** If any insurer refuses to write a policy of automobile insurance, it shall, within thirty days after such refusal, send a written explanation of such refusal to the applicant at his last known address. Notice shall be sent by United States Postal Service certified mail, certificate of mailing, first class mail using Intelligent Mail barcode (IMb), or another mail tracking method used, approved, or accepted by the United States Postal Service. The explanation shall state:

(1) The insurer's actual reason for refusing to write the policy, the statement of reason to be sufficiently clear and specific so that a person of average intelligence can identify the basis for the insurer's decision without further inquiry. Generalized terms such as "personal habits", "living conditions", "poor morals", or "violation or accident record" shall not suffice to meet the requirements of this subdivision;

(2) That the applicant may be eligible for insurance through the assigned risk plan if other insurance is not available.

2. An insurer shall be exempt from the requirements of subsection 1 of this section if the applicant is written on a policy of automobile insurance issued by an affiliate or subsidiary within the same insurance holding company system.

379.140. **[**~~In all suits brought upon policies of insurance against loss or damage by fire hereafter issued or renewed, the defendant shall not be permitted to deny that the property insured thereby was worth at the time of the issuing of the policy the full amount insured therein on said property; and in case of total loss of the property insured, the measure of damage shall be the amount for which the same was insured, less whatever depreciation in value, below the amount for which the property is insured, the property may have sustained between the time of issuing the policy and the time of the loss, and the burden of proving such depreciation shall be upon the defendant; and in case of partial loss, the measure of damage shall be that portion of the value of the whole property insured, ascertained in the manner prescribed in this chapter, which the part injured or destroyed bears to the whole property insured.~~**]** **1. When real property incurs a total loss caused by a peril covered under an insurance policy and such total loss is a covered loss under the insurance policy, then the liability of the insurance company writing the policy shall be the amount of money for which the real property was insured, less any deductible, as specified in the policy.**

2. This section shall not apply to:

(1) Any partial loss;

(2) Any personal property that is not scheduled;

(3) Any detached or appurtenant structure;

(4) Any builder's risk policy;

(5) Any policy of mortgage insurance;

(6) Two or more buildings insured under a blanket basis or limit of insurance;

(7) Any loss in which the insured or one acting on the insured's behalf engaged in any fraudulent or criminal activity that contributed to the loss;

(8) Any loss to property if the insured increased the risk of loss insured against within sixty days of the date of the loss without the consent of the insurer and the increase in the risk of loss was a cause of the loss;

(9) Any replacement cost coverage provided for in a policy or by endorsement, except that this section shall not be construed to prohibit an insured from recovering any replacement cost coverage pursuant to the terms and conditions of a policy or endorsement; or

(10) Any loss that is covered by two or more policies.

3. If two or more policies provide coverage for a total loss of real property caused by a peril, then the insureds may recover the face amount of the policy with the highest limit of coverage, and each policy shall contribute to the payment of the loss in proportion to the amount of insurance mentioned in each policy.

4. For a total loss to a commercial building that is insured on a blanket basis for a stated amount that covers two or more commercial buildings, the settlement of the claim shall be based on the initial value assigned to each affected commercial building before the loss, with any balance remaining being settled according to the terms and conditions of the policy.

379.150. **[**~~Whenever there is a partial destruction or damage to property covered by insurance, it shall be the duty of the party writing the policies to pay the assured a sum of money equal to the damage done to the property, or repair the same to the extent of such damage, not exceeding the amount written in the policy, so that said property shall be in as good condition as before the fire, at the option of the insured.~~**]** **Any fire insurance policy issued or renewed on or after August 28, 2021, shall be construed to require that a partial loss caused by fire be adjusted in accordance with the following language which shall be considered part of the standard fire insurance policy for Missouri under the provisions of section 379.160: "It shall be optional with the company to settle the loss at the actual cash value or to repair, rebuild or replace the property destroyed or damaged with other of like kind or quality within a reasonable time, on giving notice of its intention within thirty days or after the receipt of the proof of loss herein required." However, if any fire policy provides coverage for a partial loss caused by fire, in a policy form determined and approved by the director to be at least as favorable to the insured as the standard fire insurance policy for Missouri, then the insurer issuing the policy shall adjust the loss in accordance with the policy form.**

Notwithstanding any administrative rule to the contrary, nothing in this section shall be construed to create a general contractor relationship by the company to the insured.

379.160. 1. Each fire insurance company doing business in the state of Missouri is hereby required to file the form of policy for use by it in the state of Missouri, covering the responsibilities of the companies as well as the duties of the assured, to be classed and known as the standard fire insurance policy. Said policy form may be approved by the director of the department of commerce and insurance of the state, and no policy shall be issued in this state carrying risks by fire or lightning by any company which does not embrace the form filed and approved of, as herein provided. There may be printed upon such policy the words "Standard Fire Insurance Policy for Missouri" and there may be inserted before and after the word "Missouri" a designation of any state or states or territory in which such form is standard.

2. All such policies shall have an address of the company in the United States fully printed thereon, to which, in case of loss, the assured may send notice of such loss, and to which notice shall be given within sixty days after the loss.

3. The appearance of an adjuster of any company at the place of fire and loss in which said company is interested by reason of an insurance on such property, shall be considered evidence of notice and to be held as a waiver of the same on the part of the company; provided, that on any policies issued upon property, real or personal, or real and personal, there may be attached a coinsurance clause; and provided further, that when a coinsurance clause is attached to any policy a reduction in rate shall be given therefor, in accordance with coinsurance credits that are now or may hereafter be filed as a part of the public rating record in the office of the director of the department of commerce and insurance in this state, by fire insurance companies, that have been or shall hereafter be approved by the director of the department of commerce and insurance; provided further, that in all suits brought upon policies of insurance against loss or damage by fire hereafter issued or renewed, the defendant shall not be permitted to deny that the **real** property insured thereby was worth at the time of the issuing of the policy the full amount insured therein on said **real** property **[**~~covering both real and personal property~~**]**; and provided further, that nothing in this section shall be construed to repeal or change the provisions of section 379.140.

379.1800. 1. Except as provided in subsection 2 of this section, no policy of group personal lines property and casualty insurance shall be issued or delivered in this state unless it conforms to one of the following descriptions:

(1) A policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

(a) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietorships or partnerships if the business of the employer and of the affiliated corporations, proprietorships or partnerships is under common control. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietorship or partnership. The policy may provide that the term "employees" shall include directors of a corporate employer and retired employees. A policy issued to insure the employees of a public body may provide that the term "employees" shall include elected or appointed officials;

(b) The premium for the policy shall be paid either from the employer's funds or from funds contributed by the insured employees, or from both. A policy on which no part of the premium is to be derived from funds contributed by the insured employees shall insure all eligible employees, except those who reject such coverage in writing;

(2) A policy issued to a labor union or similar employee organization, which shall be deemed to be the policyholder, to insure members of the union or organization for the benefit of persons other than the union or organization or any of its officials, representatives or agents, subject to the following requirements:

(a) The members eligible for insurance under the policy shall be all of the members of the union or organization, or all of any class or classes thereof;

(b) The premium for the policy shall be paid from funds of the union or organization, from funds contributed by the insured members specifically for their insurance, or from both. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance shall insure all eligible members, except those who reject such coverage in writing;

(3) A policy issued to a trust, or to the trustees of a fund, established or adopted by two or more employers, or by one or more labor unions or similar employee organizations, or by one or more employers and one or more labor unions or similar employee organizations, which trust or trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions or organizations for the benefit of persons other than the employers or the unions or organizations, subject to the following requirements:

(a) The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions or organizations, or all of any class or classes thereof. The policy may provide that the term "employees" shall include the employees of one or

more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietorships or partnerships if the business of the employer and of such affiliated corporations, proprietorships or partnerships is under common control. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietorship or partnership. The policy may provide that the term "employees" shall include directors of a corporate employer and retired employees. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship;

(b) The premium for the policy shall be paid from funds contributed by the employer or employers of the insured persons, by the union or unions or similar employee organizations, or by both, or from funds contributed by the insured persons or from both the insured persons and the employers or unions or similar employee organizations. A policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance shall insure all eligible persons, except those who reject such coverage in writing;

(4) A policy issued to an association or to a trust or to the trustees of a fund established, created or maintained for the benefit of members of one or more associations. The association or associations shall have at the outset a minimum of one hundred persons and have been organized and maintained in good faith for purposes other than that of obtaining insurance, shall have been in active existence for at least one year, and shall have a constitution and bylaws which provide that:

(a) The association or associations hold regular meetings not less than annually to further purposes of the members;

(b) The association or associations collect dues or solicit contributions from members; and

(c) The members have voting privileges and representation on the governing board and committees.

Policies under this subdivision shall be subject to the following requirements:

a. The policy may insure members of the association or associations, employees thereof or employees of members, or one or more of the preceding or all of any class or classes thereof for the benefit of persons other than the employees' employer;

b. The premium for the policy shall be paid from funds contributed by the association or associations, or by employer members, or by both, or from funds contributed by the insured persons or from both the insured persons and the association, associations,

or employer members. A policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance shall insure all eligible persons, except those who reject such coverage in writing;

c. If compensation of any kind will or may be paid to the policyholder in connection with the group policy, the insurer shall cause to be distributed to prospective insureds a written notice that compensation will or may be paid. Such notice shall be distributed:

(i) Whether compensation is direct or indirect; and

(ii) Whether such compensation is paid to or retained by the policyholder, or paid to or retained by a third party at the direction of the policyholder or any entity affiliated with the policyholder by ownership, contract or employment.

The notice required by this subparagraph shall be placed on or accompany any document designed for the enrollment of prospective insureds;

Under this subsection, the definition of an eligible employee or member may include the spouse of the eligible employee or member.

2. Group personal lines property and casualty insurance offered to a resident of this state under a group personal lines property and casualty insurance policy issued or delivered to a group other than one described in subsection 1 of this section shall be subject to the following requirements:

(1) No such group personal lines property and casualty insurance policy shall be issued or delivered in this state unless the director finds that:

(a) The issuance of the group policy is not contrary to the best interest of the public;

(b) The issuance of the group policy would result in economies of acquisition or administration; and

(c) The benefits are reasonable in relation to the premiums charged;

(2) No group personal lines property and casualty insurance coverage shall be offered in this state by an insurer under a policy issued or delivered in another state unless this state or another state having requirements substantially similar to those contained in subdivision (1) of this subsection has made a determination that the requirements have been met;

(3) The premium for a group personal lines property and casualty policy shall be paid from the policyholder's funds, from funds contributed by the covered persons, or from both;

(4) If compensation of any kind will or may be paid to the policyholder in connection with the group policy, the insurer shall cause to be distributed to prospective insureds, a written notice that compensation will or may be paid. Notice shall be distributed:

(a) Whether compensation is direct or indirect; and

(b) Whether such compensation is paid to or retained by the policyholder, or paid to or retained by a third party at the direction of the policyholder or any entity affiliated with the policyholder by ownership, contract or employment.

The notice required by this subsection shall be placed on or accompany any document designed for the enrollment of prospective insureds.

379.1803. 1. A master policy shall be issued to the policyholder. Eligible employees or members insured under the master policy shall receive certificates of coverage setting forth a statement as to the insurance protection to which they are entitled.

2. No master policy or certificate of insurance shall be issued or delivered in this state unless the master policy form, together with all forms for riders, certificates and endorsements to the master policy form, shall have met the applicable filing requirements in this state. No subsequent amendments to the master policy form or forms for riders, certificates and endorsements to the master policy form shall be issued or delivered until they have met the applicable filing requirements in this state.

3. The master policy shall set forth the coverages, exclusions and conditions of the insurance provided therein, together with the terms and conditions of the agreement between the policyholder and the insurer. The master policy shall make express provisions for the following:

(1) Methods of premium collection;

(2) Enrollment period, effective date provisions and eligibility standards for employees or members;

(3) Termination of the master policy; and

(4) Conversion privileges of the employees or members.

4. If the master policy provides for remittance of premium by the policyholder, failure of the policyholder to remit premiums when due shall not be regarded as nonpayment of premium by the employee or member who has made his or her contribution on a timely basis.

379.1806. 1. The master policy shall provide a basic package of coverages and limits that are available to all eligible employees or members. The package shall include at least the minimum coverages and limits of insurance as required by law in that

employee's or member's state of residence or in the state where the subject property is located, if applicable. In addition, the master policy may provide additional coverages or limits to be available at an increased premium to employees or members who qualify under the terms of the master policy.

2. The master policy shall provide coverage for all eligible employees or members who elect coverage during their initial period of eligibility, which period shall not be less than thirty-one days. Employees or members who do not elect coverage during the initial period and later request coverage shall be subject to the insurer's underwriting standards.

3. Coverage under the master policy may be reduced only as to all members of a class, and shall never be reduced to a level below the limits required by applicable law.

4. Coverage under the master policy may be terminated as to an employee or member only for:

(1) Failure of the employee or member to make required premium contributions;

(2) Termination of the master policy in its entirety or as to the class to which the employee or member belongs;

(3) Discontinuance of the employee's or member's membership in a class eligible for coverage; or

(4) Termination of employment or membership.

5. If optional coverages or limits are available by law in an employee's or member's state of residence, the policyholder's acceptance or rejection of the optional coverages or limits on behalf of the group shall be binding on the employees or members. If the policyholder rejects any coverages or limits that are required by law to be provided unless rejected by the named insured, notice of the rejection shall be given to the employees or members at or before the time their certificates of coverage are delivered.

6. Stacking of coverages or limits among separate certificates of insurance is prohibited under a master policy of group personal lines property and casualty insurance; except that, if separate certificates under the same master policy are issued to relatives living in the same household, the state law pertaining to stacking of individual policies shall apply to those certificates.

379.1809. 1. No master policy or certificate of insurance shall be issued or delivered in this state unless the rating plan and amendments thereto used in the determination of the master policy premium have met the applicable filing requirements in this state.

2. Group insurance premium rates shall not be deemed unfairly discriminatory if adjusted to reflect past and prospective loss experience or group expense factors, or if averaged broadly among persons insured under the master policy. Nor shall such rates be deemed to be unfairly discriminatory if they do not reflect individual rating factors

including surcharges and discounts required for individual personal lines property and casualty insurance policies.

3. Experience refunds or dividends may be paid to the policyholder of a group personal lines property and casualty insurance policy if the insurer's experience under that policy justifies experience refunds or dividends. However, if an experience refund or dividend is declared, it shall be applied by the policyholder for the sole benefit of the insured employees or members to the extent that the experience refund or dividend exceeds the policyholder's contribution to premium for the period covered by such experience refund or dividend.

379.1812. 1. An insurer issuing or delivering group personal lines property and casualty insurance shall maintain separate statistics as to the loss and expense experience pertinent thereto.

2. No insurer shall issue or deliver a group personal lines property and casualty insurance policy if it is a condition of employment or of membership in a group that any employee or member purchase insurance pursuant to the policy, or if any employee or member shall be subject to any penalty by reason of his or her non-participation.

3. (1) No insurer shall issue or deliver a group personal lines property and casualty insurance policy if:

(a) The purchase of insurance available under the policy is contingent upon the purchase of any other insurance, product, or service; or

(b) The purchase or price of any other insurance, product, or service is contingent upon the purchase of insurance available under the group personal lines property and casualty insurance policy.

(2) Subdivision (1) of this subsection shall not be deemed to prohibit the reasonable requirement of safety devices, such as heat detectors, lightning rods, theft prevention equipment and the like. Neither shall subdivision (1) of this subsection be deemed to prohibit the marketing of "package" or "combination" policies.

4. The insurer's experience from its group personal lines property and casualty insurance policies shall be included in the determination of the insurer's participation in the applicable residual market plans.

5. For purposes of premium taxes, the insurer shall allocate premiums in accordance with the rules applicable to individual personal lines property and casualty insurance policies, except that any required allocation may be based on an annual survey of insureds. Premiums shall be apportioned among states without differentiation between policyholder or employee or member contributions.

379.1815. 1. No person shall act in this state as an insurance agent or broker in connection with the solicitation, negotiation or sale of a group personal lines property and casualty insurance policy unless the person is duly licensed under sections 375.012 to 375.146 as an insurance producer for the applicable lines of insurance. However, none of the following activities engaged in by the insurer or its employees, or the policyholder or its employees, shall require the licensing of such entities or persons as insurance producers:

(1) Endorsement or recommendation of the master policy to employees or members;

(2) Distribution to employees or members, by mail or otherwise, of information pertaining to the master policy;

(3) Collection of contributions toward premium through payroll deductions or other appropriate means, and remittance of the premium to an insurer; or

(4) Receipt of reimbursement from an insurer for actual, reasonable expenses incurred for administrative services which would otherwise be performed by the insurer with respect to the master policy. However, nothing herein shall supersede any applicable law or regulation that prohibits or regulates splitting of commissions with unlicensed persons, or rebating commissions or premiums.

2. No countersignature requirements shall apply to a group personal lines property and casualty insurance policy that is issued or delivered in this state pursuant to the provisions of sections 379.1800 to 379.1824.

379.1818. 1. Each employee or member covered under the master policy whose coverage thereunder terminates for any reason other than the failure to make required contributions toward premiums or at the request of the employee or member, shall receive from the insurer thirty days prior written notice of termination or ineligibility. The notice shall state the reasons for discontinuance of coverage under the master policy, and shall explain the employee's or member's options for conversion to an individual policy.

2. If, within thirty days after receipt of notice of termination or ineligibility, application is made and the first premium is paid to the insurer, the employee or member shall be entitled to have issued to him or her by the insurer, or an affiliate within the same group of insurers, an individual policy, effective upon termination or ineligibility, with coverages and limits at least equal to the minimum coverages and limits of insurance as required by the applicable state law.

3. No individual notice of termination as provided in subsection 1 of this section and no conversion privilege as provided in subsection 2 of this section shall be required if the master policy is replaced by another master policy within thirty days. Coverage under

the prior master policy shall terminate when the replacement master policy becomes effective.

379.1821. 1. No master policy or certificate of insurance shall be issued or delivered in this state unless issued or delivered by an insurer which is duly licensed in this state to write the lines of insurance covered by the master policy or is an eligible nonadmitted insurer pursuant to section 384.021.

2. The provisions of sections 379.1800 to 379.1824 shall not apply to the mass marketing or any other type of marketing of individual personal lines property and casualty insurance policies.

3. Sections 379.1800 to 379.1824 shall not apply to policies of credit property or credit casualty insurance which insure the debtors of a creditor or creditors with respect to their indebtedness.

4. Sections 379.1800 to 379.1824 shall not apply to policies of personal automobile insurance or personal motor vehicle liability insurance, nor shall such sections be construed as authorizing the sale or issuance of personal automobile insurance or personal motor vehicle liability insurance under a group or master policy within this state.

5. Sections 379.1800 to 379.1812 shall not apply to policies issued by a nonadmitted insurer pursuant to chapter 384.

6. Nothing in sections 379.1800 to 379.1824 shall limit the authority of the director with respect to complaints or disputes involving residents of this state arising out of a master policy that has been issued or delivered in another state.

7. The director may promulgate rules as necessary to implement and administer the provisions of sections 379.1800 to 379.1824. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2021, shall be invalid and void.

379.1824. The provisions of sections 379.1800 to 379.1824 shall become effective January 1, 2022. No master policy or certificate of insurance shall be issued or delivered in this state after the effective date unless issued or delivered in compliance with sections 379.1800 to 379.1824. A master policy or certificate that is lawfully in effect on January 1, 2022, shall comply with the provisions of sections 379.1800 to 379.1824 within twelve months of such date.

436.700. 1. The provisions of this section shall be known and cited as the "Missouri Statutory Thresholds for Settlements Involving Minors Act".

2. A person having legal custody of a minor may enter into a settlement agreement with any person or entity against whom the minor has a claim if:

(1) A conservator or guardian ad litem has not been appointed for the minor;

(2) The total amount of the claim, including reimbursement of medical expenses, liens, reasonable attorney's fees, and costs, is thirty-five thousand dollars or less if paid in cash, by draft, or if paid by the purchase of a premium for an annuity;

(3) The moneys paid pursuant to the settlement agreement will be paid as set forth in subsections 5 and 6 of this section; and

(4) The person entering into the settlement agreement on behalf of the minor completes an affidavit or verified statement that attests that the person has made a reasonable inquiry and that:

(a) To the best of the person's knowledge, the minor will be fully compensated by the settlement; or

(b) There is no practical way to obtain additional amounts from the person or entity entering into the settlement agreement with the minor.

3. The attorney representing the person entering into the settlement agreement on behalf of the minor, if any, shall maintain the affidavit or verified statement completed pursuant to subdivision (4) of subsection 2 of this section in the attorney's file for at least six years in accordance with the Missouri supreme court rules of professional conduct.

4. The amount of the settlement described in subdivision (2) of subsection 2 of this section shall be increased every five years beginning January 1, 2027, based on the Consumer Price Index for All Urban Consumers for the United States (CPI-U), or its successor index, as such index is defined and officially reported by the United States Department of Labor, or its successor agency. For purposes of this section, any increase in the consumer price index shall be determined based upon the percentage increase of the consumer price index for the preceding calendar year over the consumer price index for the calendar year five years prior thereto.

5. The moneys payable in the settlement agreement shall be paid as follows:

(1) If the minor or person entering into the settlement agreement on behalf of the minor is represented by an attorney and the settlement is paid in cash, by draft, or by direct deposit into the attorney's trust account maintained pursuant to supreme court rules to be held for the benefit of the minor, the attorney shall deposit the moneys received on behalf of the minor directly into a uniform transfer to minors account for the sole benefit of the minor. The attorney shall provide notice of the deposit to the minor and the person

entering into the settlement agreement on behalf of the minor. Notice shall be delivered by personal service or first class mail;

(2) If the minor or person entering into the settlement agreement on behalf of the minor is not represented by an attorney and the settlement is paid:

(a) In cash or by draft, the person entering into the settlement agreement on behalf of the minor shall deposit the moneys directly into a uniform transfer to minors account for the sole benefit of the minor; or

(b) By direct deposit, the person entering into the settlement agreement on behalf of the minor shall provide the person or entity with whom the minor has settled the claim with information sufficient to complete an electronic transfer of settlement funds within ten business days of the settlement into a uniform transfer to minors account for the sole benefit of the minor and the person or entity with whom the minor has settled shall provide notice of the electronic transfer by personal service or first class mail to the minor and the person entering the settlement agreement on behalf of the minor;

(3) If paid by purchase of an annuity, the moneys shall be paid by direct payment to the provider of the annuity with the minor designated as the sole beneficiary of the annuity; or

(4) If the minor is in the custody of the state and the settlement is paid in cash, the moneys shall be deposited directly into a trust account or subaccount of a trust account established by the children's division of the department of social services for the purpose of receiving moneys payable to the minor in the custody of the state under the settlement agreement and that earns interest for the benefit of the minor in the custody of the state.

6. The moneys in the minor's savings account, trust account, or trust subaccount established in subsection 5 of this section may not be withdrawn, removed, paid out, or transferred to any person, including the minor, except as follows:

(1) Pursuant to a court order;

(2) Upon the minor's attainment of eighteen years of age;

(3) At the direction of a duly appointed conservator;

(4) At the direction of the custodian for the uniform transfer to minors account for the sole benefit of the minor; or

(5) Upon the minor's death.

7. If a settlement agreement is entered into in compliance with subsection 2 of this section, the signature of the person entering into the settlement agreement on behalf of the minor is binding on the minor without the need for further court approval or review and has the same force and effect as if the minor were a competent adult entering into the settlement agreement.

8. A person acting in good faith in entering into a settlement agreement on behalf of a minor pursuant to this section shall not be liable to the minor for the moneys paid in the settlement or for any other claims arising out of the settlement of the claim.

9. Any person or entity against whom a minor has a claim, including any insurer of a person or entity against whom a minor has a claim, that settles the claim with the minor in good faith pursuant to this section shall not be liable to the minor for any claims arising from the settlement of the claim.

507.184. 1. The next friend, guardian ad litem or guardian or conservator shall have the power and authority, subject to the approval of the court, to waive a jury and submit all issues in such action or proposed settlement to the court for determination.

2. The next friend, guardian ad litem or guardian or conservator shall have the power and authority to contract on behalf of the minor for a settlement of the minor's claim, action or judgment, provided that such contract and settlement shall not be effective until approved by the court. The next friend, guardian ad litem and guardian or conservator shall also have the power and authority to execute and sign a release or satisfaction and discharge of a judgment which shall be binding upon the minor, provided the court orders the execution of such release or satisfaction and discharge of judgment.

3. The court shall have the power and authority to hear evidence on and either approve or disapprove a proposed contract to settle an action or claim of a minor, to authorize and order the next friend, guardian ad litem or guardian or conservator to execute and sign a release or satisfaction and discharge of judgment, and shall also have the power and authority to approve a fee contract between the next friend, guardian ad litem or guardian or conservator and an attorney and to order him to pay an attorney fee and to pay the expenses which have been reasonably incurred in connection with the preparation and prosecution of the action or claim and including the cost of any bonds required herein.

4. Notwithstanding the provisions of this section to the contrary, nothing in this section shall be construed as prohibiting the settlement of claims pursuant to section 436.700 or as requiring court approval of settlements pursuant to section 436.700.

[~~379.145. 1. When fire insurance policies shall be hereafter issued or renewed by more than one company upon the same property, and suit shall be brought upon any of said policies, the defendant shall not be permitted to deny that the property insured was worth the aggregate of the several amounts for which it was insured at the time the policy was issued or renewed thereon, unless willful fraud or misrepresentation is shown on part of the insured in obtaining such additional insurance; and in such suit the measure of damage shall be as provided in section 379.140; provided, that whatever depreciation in value below the amount for which the property is insured may be shown, as provided in section 379.140, shall be deducted from the amount insured in each policy, in the~~

~~proportion which the amount in each such policy bears to the aggregate of all the amounts so insured on such property.~~

~~2. This and section 379.140 shall apply only to real property insured.~~

~~3. Any condition in any policy of insurance contrary to the provisions of this chapter shall be illegal and void.~~]

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