

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 29**  
**101ST GENERAL ASSEMBLY**

0832H.02C

DANA RADEMAN MILLER, Chief Clerk

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**AN ACT**

To repeal sections 303.220, 319.129, 319.131, 375.018, 375.246, and 384.043, RSMo, and to enact in lieu thereof sixteen new sections relating to regulation of certain insurance products, with an emergency clause.

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

Section A. Sections 303.220, 319.129, 319.131, 375.018, 375.246, and 384.043, RSMo, are repealed and sixteen new sections enacted in lieu thereof, to be known as sections 303.220, 319.129, 319.131, 375.018, 375.246, 376.2080, 379.1800, 379.1802, 379.1804, 379.1806, 379.1808, 379.1810, 379.1812, 379.1814, 379.1816, and 384.043, to read as follows:

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.

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.

319.129. 1. There is hereby created a special trust fund to be known as the "Petroleum Storage Tank Insurance Fund" within the state treasury which shall be the successor to the underground storage tank insurance fund. Moneys in such special trust fund shall not be deemed to be state funds. Notwithstanding the provisions of section 33.080 to the contrary, moneys in the fund shall not be transferred to general revenue at the end of each biennium.

2. The owner or operator of any underground storage tank, including the state of Missouri and its political subdivisions and public transportation systems, in service on August 28, 1989, shall submit to the department a fee of one hundred dollars per tank on or before December 31, 1989. The owner or operator of any underground storage tank who seeks to participate in the petroleum storage tank insurance fund, including the state of Missouri and its political subdivisions and public transportation systems, and whose underground storage tank is brought into service after August 28, 1998, shall transmit one hundred dollars per tank to the board with his or her initial application. Such amount shall be a one-time payment, and shall be in addition to the payment required by section 319.133. The owner or operator of any aboveground storage tank regulated by this chapter, including the state of Missouri and its political subdivisions and public transportation systems, who seeks to participate in the petroleum storage tank insurance fund, shall transmit one hundred dollars per tank to the board with his or her initial application. Such amount shall be a one-time payment and shall be in addition to the payment required by section 319.133. Moneys received pursuant to this section shall be transmitted to the director of revenue for deposit in the petroleum storage tank insurance fund.

3. The state treasurer may deposit moneys in the fund in any of the qualified depositories of the state. All such deposits shall be secured in a manner and upon the terms as are provided by law relative to state deposits. Interest earned shall be credited to the petroleum storage tank insurance fund.

4. The general administration of the fund and the responsibility for the proper operation of the fund, including all decisions relating to payments from the fund, are hereby vested in a board of trustees. The board of trustees shall consist of the commissioner of administration or the commissioner's designee, the director of the department of natural resources or the director's designee, the director of the department of agriculture or the director's designee, and eight citizens appointed by the governor with the advice and consent of the senate. Three of the appointed members shall be owners or operators of retail petroleum storage tanks, including one tank owner or operator of greater than one hundred tanks; one tank owner or operator of less than one hundred tanks; and one aboveground storage tank owner or operator. One appointed trustee shall represent a financial lending institution, and one appointed trustee shall represent the insurance underwriting industry. One appointed trustee shall represent industrial or commercial

37 users of petroleum. The two remaining appointed citizens shall have no petroleum-related  
38 business interest, and shall represent the nonregulated public at large. The members appointed  
39 by the governor shall serve four-year terms except that the governor shall designate two of the  
40 original appointees to be appointed for one year, two to be appointed for two years, two to be  
41 appointed for three years and two to be appointed for four years. Any vacancies occurring on  
42 the board shall be filled in the same manner as provided in this section.

43 5. The board shall meet in Jefferson City, Missouri, within thirty days following August  
44 28, 1996. Thereafter, the board shall meet upon the written call of the chairman of the board or  
45 by the agreement of any six members of the board. Notice of each meeting shall be delivered  
46 to all other trustees in person or by registered mail not less than six days prior to the date fixed  
47 for the meeting. The board may meet at any time by unanimous mutual consent. There shall be  
48 at least one meeting in each quarter.

49 6. Six trustees shall constitute a quorum for the transaction of business, and any official  
50 action of the board shall be based on a majority vote of the trustees present.

51 7. The trustees shall serve without compensation but shall receive from the fund their  
52 actual and necessary expenses incurred in the performance of their duties for the board.

53 8. The board of trustees shall be a type III agency and shall appoint an executive director  
54 and other employees as needed, who shall be state employees and be eligible for all  
55 corresponding benefits. The executive director shall have charge of the offices, operations,  
56 records, and other employees of the board, subject to the direction of the board. Employees of  
57 the board shall receive such salaries and necessary expenses as shall be fixed by the board.

58 9. Staff resources for the Missouri petroleum storage tank insurance fund may be  
59 provided by the department of natural resources or another state agency as otherwise specifically  
60 determined by the board. The fund shall compensate the department of natural resources or other  
61 state agency for all costs of providing staff required by this subsection. Such compensation shall  
62 be made pursuant to contracts negotiated between the board and the department of natural  
63 resources or other state agency.

64 10. In order to carry out the fiduciary management of the fund, the board may select and  
65 employ, or may contract with, persons experienced in insurance underwriting, accounting, the  
66 servicing of claims and rate making, and legal counsel to defend third-party claims, who shall  
67 serve at the board's pleasure. Invoices for such services shall be presented to the board in  
68 sufficient detail to allow a thorough review of the costs of such services.

69 11. At the first meeting of the board, the board shall elect one of its members as  
70 chairman. The chairman shall preside over meetings of the board and perform such other duties  
71 as shall be required by action of the board.

72           12. The board shall elect one of its members as vice chairman, and the vice chairman  
73 shall perform the duties of the chairman in the absence of the latter or upon the chairman's  
74 inability or refusal to act.

75           13. The board shall determine and prescribe all rules and regulations as they relate to  
76 fiduciary management of the fund, pursuant to the purposes of sections 319.100 to 319.137. In  
77 no case shall the board have oversight regarding environmental cleanup standards for petroleum  
78 storage tanks.

79           14. No trustee or staff member of the fund shall receive any gain or profit from any  
80 moneys or transactions of the fund. This shall not preclude any eligible trustee from making a  
81 claim or receiving benefits from the petroleum storage tank insurance fund as provided by  
82 sections 319.100 to 319.137.

83           15. The board may reinsure all or a portion of the fund's liability. Any insurer who sells  
84 environmental liability insurance in this state may, at the option of the board, reinsure some  
85 portion of the fund's liability.

86           16. The petroleum storage tank insurance fund shall expire on December 31, [2025]  
87 **2030**, unless extended by action of the general assembly. After December 31, [2025] **2030**, the  
88 board of trustees may continue to function for the sole purpose of completing payment of claims  
89 made prior to December 31, [2025] **2030**.

90           17. The board shall annually commission an independent financial audit of the petroleum  
91 storage tank insurance fund. The board shall biennially commission an actuarial analysis of the  
92 petroleum storage tank insurance fund. The results of the financial audit and the actuarial  
93 analysis shall be made available to the public. The board may contract with third parties to carry  
94 out the requirements of this subsection.

          319.131. 1. Any owner or operator of one or more petroleum storage tanks may elect  
2 to participate in the petroleum storage tank insurance fund to meet the financial responsibility  
3 requirements of sections 319.114 and 414.036. Subject to regulations of the board of trustees,  
4 owners or operators may elect to continue their participation in the fund subsequent to the  
5 transfer of their property to another party. Current or former refinery sites or petroleum pipeline  
6 or marine terminals are not eligible for participation in the fund.

7           2. The board shall establish an advisory committee which shall be composed of insurers,  
8 owners and operators of petroleum storage tanks, and other interested parties. The advisory  
9 committee established pursuant to this subsection shall report to the board. The committee shall  
10 monitor the fund and recommend statutory and administrative changes as may be necessary to  
11 assure efficient operation of the fund. The committee, in consultation with the board and the  
12 department of commerce and insurance, shall report every two years to the general assembly on  
13 the availability and affordability of the private insurance market as a viable method of meeting

14 the financial responsibilities required by state and federal law in lieu of the petroleum storage  
15 tank insurance fund.

16 3. (1) Except as otherwise provided by this section, any person seeking to participate  
17 in the insurance fund shall submit an application to the board of trustees and shall certify that the  
18 petroleum tanks meet or exceed and are in compliance with all technical standards established  
19 by the United States Environmental Protection Agency, except those standards and regulations  
20 pertaining to spill prevention control and counter-measure plans, and rules established by the  
21 Missouri department of natural resources and the Missouri department of agriculture. The  
22 applicant shall submit proof that the applicant has a reasonable assurance of the tank's integrity.  
23 Proof of tank integrity may include but not be limited to any one of the following: tank tightness  
24 test, electronic leak detection, monitoring wells, daily inventory reconciliation, vapor test or any  
25 other test that may be approved by the director of the department of natural resources or the  
26 director of the department of agriculture. The applicant shall submit evidence that the applicant  
27 can meet all applicable financial responsibility requirements of this section.

28 (2) A creditor, specifically a person who, without participating in and not otherwise  
29 primarily engaged in petroleum production, refining, and marketing, holds indicia of ownership  
30 primarily for the purpose of, or in connection with, securing payment or performance of a loan  
31 or to protect a security interest in or lien on the tank or the property where the tank is located,  
32 or serves as trustee or fiduciary upon transfer or receipt of the property, may be a successor in  
33 interest to a debtor pursuant to this section, provided that the creditor gives notice of the interest  
34 to the insurance fund by certified mail, return receipt requested. Part of such notice shall include  
35 a copy of the lien, including but not limited to a security agreement or a deed of trust as  
36 appropriate to the property. The term "successor in interest" as provided in this section means  
37 a creditor to the debtor who had qualified real property in the insurance fund prior to the transfer  
38 of title to the creditor, and the term is limited to access to the insurance fund. The creditor may  
39 cure any of the debtor's defaults in payments required by the insurance fund, provided the  
40 specific real property originally qualified pursuant to this section. The creditor, or the creditor's  
41 subsidiary or affiliate, who forecloses or otherwise obtains legal title to such specific real  
42 property held as collateral for loans, guarantees or other credit, and which includes the debtor's  
43 aboveground storage tanks or underground storage tanks, or both such tanks shall provide notice  
44 to the fund of any transfer of creditor to subsidiary or affiliate. Liability pursuant to sections  
45 319.100 to 319.137 shall be confined to such creditor or such creditor's subsidiary or affiliate.  
46 A creditor shall apply for a transfer of coverage and shall present evidence indicating a lien,  
47 contractual right, or operation of law permitting such transfer, and may utilize the creditor's  
48 affiliate or subsidiary to hold legal title to the specific real property taken in satisfaction of debts.  
49 Creditors may be listed as insured or additional insured on the insurance fund, and not merely

50 as mortgagees, and may assign or otherwise transfer the debtor's rights in the insurance fund to  
51 the creditor's affiliate or subsidiary, notwithstanding any limitations in the insurance fund on  
52 assignments or transfer of the debtor's rights.

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

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

72 5. The fund shall provide coverage for third-party claims involving property damage or  
73 bodily injury caused by leaking petroleum storage tanks whose owner or operator is participating  
74 in the fund at the time the release occurs or is discovered. Coverage for third-party property  
75 damage or bodily injury shall be in addition to the coverage described in subsection 4 of this  
76 section but the total liability of the petroleum storage tank insurance fund for all cleanup costs,  
77 property damage, and bodily injury shall not exceed one million dollars per occurrence or two  
78 million dollars aggregate per year. The fund shall not compensate an owner or operator for  
79 repair of damages to property beyond that required to contain and clean up a release of a  
80 regulated substance or compensate an owner or operator or any third party for loss or damage to  
81 other property owned or belonging to the owner or operator, or for any loss or damage of an  
82 intangible nature, including, but not limited to, loss or interruption of business, pain and  
83 suffering of any person, lost income, mental distress, loss of use of any benefit, or punitive  
84 damages.

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

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

96           8. (1) The fund shall provide moneys for cleanup of contamination caused by releases  
97 from petroleum storage tanks, the owner or operator of which is participating in the fund or the  
98 owner or operator of which has made application for participation in the fund by December 31,  
99 1997, regardless of when such release occurred, provided that those persons who have made  
100 application are ultimately accepted into the fund. Applicants shall not be eligible for fund  
101 benefits until they are accepted into the fund. This section shall not preclude the owner or  
102 operator of petroleum storage tanks coming into service after December 31, 1997, from making  
103 application to and participating in the petroleum storage tank insurance fund.

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

112           9. (1) The fund shall provide moneys for cleanup of contamination caused by releases  
113 from underground storage tanks which contained petroleum and which have been taken out of  
114 use prior to December 31, 1997, provided such sites have been documented by or reported to the  
115 department of natural resources prior to December 31, 1997, and provided further that the fund  
116 shall make no reimbursements for expenses incurred prior to August 28, 1995. The fund shall  
117 also provide moneys for cleanup of contamination caused by releases from underground storage  
118 tanks which contained petroleum and which have been taken out of use prior to December 31,  
119 1985, if the current owner of the real property where the tanks are located purchased such  
120 property before December 31, 1985, provided such sites are reported to the fund on or before

121 June 30, 2000. The fund shall make no payment for expenses incurred at such sites prior to  
122 August 28, 1999. Nothing in sections 319.100 to 319.137 shall affect the validity of any  
123 underground storage tank fund insurance policy in effect on August 28, 1996.

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

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

137 10. (1) The fund shall provide moneys for cleanup of contamination caused by releases  
138 from aboveground storage tanks utilized for the sale of products regulated by chapter 414 which  
139 have been taken out of use prior to December 31, 1997, provided such sites have been  
140 documented by or reported to the department of natural resources prior to December 31, 1997,  
141 and provided further that the fund shall make no reimbursements for expenses incurred prior to  
142 July 1, 1997.

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

375.018. 1. Unless denied licensure pursuant to section 375.141, persons who have met  
2 the requirements of sections 375.014, 375.015 and 375.016 shall be issued an insurance producer  
3 license for a term of two years. An insurance producer may qualify for a license in one or more  
4 of the following lines of authority:

5 (1) Life insurance coverage on human lives including benefits of endowment and  
6 annuities, and may include benefits in the event of death or dismemberment by accident and  
7 benefits for disability income;



- 8 (2) Accident and health or sickness insurance coverage for sickness, bodily injury or  
9 accidental death and may include benefits for disability income;
- 10 (3) Property insurance coverage for the direct or consequential loss or damage to  
11 property of every kind;
- 12 (4) Casualty insurance coverage against legal liability, including that for death, injury  
13 or disability or damage to real or personal property;
- 14 (5) Variable life and variable annuity products insurance coverage provided under  
15 variable life insurance contracts and variable annuities;
- 16 (6) Personal lines property and casualty insurance coverage sold to individuals and  
17 families for primarily noncommercial purposes;
- 18 (7) Credit-limited line credit insurance;
- 19 (8) Any other line of insurance permitted under state laws or regulations.
- 20 2. Any insurance producer who is certified by the Federal Crop Insurance Corporation  
21 on September 28, 1995, to write federal crop insurance shall not be required to have a property  
22 license for the purpose of writing federal crop insurance.
- 23 3. The biennial renewal fee for a producer's license is one hundred dollars for each  
24 license. A producer's license shall be renewed biennially on the ~~[anniversary]~~ **birth** date of  
25 ~~[issuance]~~ **the producer** and continue in effect until refused, revoked, or suspended by the  
26 director in accordance with section 375.141.
- 27 4. An individual insurance producer who allows his or her license to expire may, within  
28 twelve months from the due date of the renewal fee, reinstate the same license without the  
29 necessity of passing a written examination. The insurance producer seeking relicensing pursuant  
30 to this subsection shall provide proof that the continuing education requirements have been met  
31 and shall pay a penalty of twenty-five dollars per month that the license was expired in addition  
32 to the requisite renewal fees that would have been paid had the license been renewed in a timely  
33 manner. Nothing in this subsection shall require the director to relicense any insurance producer  
34 determined to have violated the provisions of section 375.141.
- 35 5. A business entity insurance producer that allows the license to expire may, within  
36 twelve months of the due date of the renewal, reinstate the license by paying the license fee that  
37 would have been paid had the license been renewed in a timely manner plus a penalty of twenty-  
38 five dollars per month that the license was expired.
- 39 6. The license shall contain the name, address, identification number of the insurance  
40 producer, the date of issuance, the lines of authority, the expiration date and any other  
41 information the director deems necessary.
- 42 7. Insurance producers shall inform the director by any means acceptable to the director  
43 of a change of address within thirty days of the change. Failure to timely inform the director of

44 a change in legal name or address may result in a forfeiture not to exceed the sum of ten dollars  
45 per month.

46 8. In order to assist the director in the performance of his or her duties, the director may  
47 contract with nongovernmental entities, including the National Association of Insurance  
48 Commissioners or any affiliates or subsidiaries that the organization oversees or through any  
49 other method the director deems appropriate, to perform any ministerial functions, including the  
50 collection of fees, related to producer licensing that the director may deem appropriate.

51 9. Any bank or trust company in the sale or issuance of insurance products or services  
52 shall be subject to the insurance laws of this state and rules adopted by the department of  
53 commerce and insurance.

54 10. A licensed insurance producer who is unable to comply with license renewal  
55 procedures due to military service or some other extenuating circumstance, such as a long-term  
56 medical disability, may request a waiver of those procedures. The producer may also request a  
57 waiver of any other fine or sanction imposed for failure to comply with renewal procedures.

58 **11. The director may promulgate rules using the authority granted under section**  
59 **375.045 to assist in the implementation of this section, including prorating licensure periods**  
60 **so that all renewals after January 1, 2022, shall occur biennially on a licensee's birth date.**

375.246. 1. Credit for reinsurance shall be allowed a domestic ceding insurer as either  
2 an asset or a reduction from liability on account of reinsurance ceded only when the reinsurer  
3 meets the requirements of ~~subdivisions~~ **subdivision (1) [to] , (2), (3), (4), (5), (6), or (7) of this**  
4 **subsection; provided that the director may adopt by rule, under subdivision (2) of**  
5 **subsection 4 of this section, specific additional requirements relating to or setting forth the**  
6 **valuation of assets or reserve credits, the amount and forms of security supporting**  
7 **reinsurance arrangements described in subdivision (2) of subsection 4 of this section, or**  
8 **the circumstances under which credit will be reduced or eliminated.** Credit shall be allowed  
9 pursuant to subdivision (1), (2) or (3) of this subsection only as respects cessions of those kinds  
10 or classes of business which the assuming insurer is licensed or otherwise permitted to write or  
11 assume in its state of domicile or, in the case of a United States branch of an alien assuming  
12 insurer, in the state through which it is entered and licensed to transact insurance or reinsurance.  
13 Credit shall be allowed pursuant to subdivision (3), (4), or (5) of this subsection only if the  
14 applicable requirements of subdivision ~~(7)~~ **(8) of this subsection** have been satisfied.

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

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

- 20 (a) File with the director evidence of its submission to this state's jurisdiction;
- 21 (b) Submit to the authority of the department of commerce and insurance to examine its  
22 books and records;
- 23 (c) Be licensed to transact insurance or reinsurance in at least one state, or in the case of  
24 a United States branch of an alien assuming insurer is entered through and licensed to transact  
25 insurance or reinsurance in at least one state;
- 26 (d) File annually with the director a copy of its annual statement filed with the insurance  
27 department of its state of domicile and a copy of its most recent audited financial statement; and
- 28 (e) Demonstrate to the satisfaction of the director that it has adequate financial capacity  
29 to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from  
30 domestic insurers. An assuming insurer is deemed to meet such requirement as of the time of  
31 its application if it maintains a surplus regarding policyholders in an amount not less than twenty  
32 million dollars and its accreditation has not been denied by the director within ninety days after  
33 submission of its application;
- 34 (3) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is  
35 domiciled in, or in the case of a United States branch of an alien assuming insurer is entered  
36 through, a state that employs standards regarding credit for reinsurance substantially similar to  
37 those applicable under this statute and the assuming insurer or United States branch of an alien  
38 assuming insurer:
- 39 (a) Maintains a surplus as regards policyholders in an amount not less than twenty  
40 million dollars; except that this paragraph does not apply to reinsurance ceded and assumed  
41 pursuant to pooling arrangements among insurers in the same holding company system; and
- 42 (b) Submits to the authority of the department of commerce and insurance to examine  
43 its books and records;
- 44 (4) (a) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that  
45 maintains a trust fund in a qualified United States financial institution, as defined in subdivision  
46 (2) of subsection 3 of this section, for the payment of the valid claims of its United States ceding  
47 insurers, their assigns and successors in interest. To enable the director to determine the  
48 sufficiency of the trust fund, the assuming insurer shall report annually to the director  
49 information substantially the same as that required to be reported on the National Association  
50 of Insurance Commissioners' annual statement form by licensed insurers. The assuming insurer  
51 shall submit to examination of its books and records by the director.
- 52 (b) Credit for reinsurance shall not be granted pursuant to this subdivision unless the  
53 form of the trust and any amendments to the trust have been approved by:
- 54 a. The commissioner or director of the state agency regulating insurance in the state  
55 where the trust is domiciled; or

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

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

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

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

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

76           b. At any time after the assuming insurer has permanently discontinued underwriting  
77 new business secured by the trust for at least three full years, the director with principal regulator  
78 oversight of the trust may authorize a reduction in the required trusteed surplus, but only after  
79 a finding based on an assessment of risk that the new required surplus level is adequate for the  
80 protection of United States ceding insurers, policyholders, and claimants in light of reasonably  
81 foreseeable adverse loss development. The risk assessment may involve an actuarial review,  
82 including an independent analysis of reserves and cash flows, and shall consider all material risk  
83 factors including, when applicable, the lines of business involved, the stability of the incurred  
84 loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or  
85 solvency. The minimum required trusteed surplus shall not be reduced to an amount less than  
86 thirty percent of the assuming insurer's liabilities attributable to reinsurance ceded by United  
87 States ceding insurers covered by the trust;

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

89           (i) For reinsurance ceded under reinsurance agreements with an inception, amendment  
90 or renewal date on or after January 1, 1993, the trust shall consist of a trusteed account in an

91 amount not less than the respective underwriter's several liabilities attributable to business ceded  
92 by United States domiciled ceding insurers to any underwriter of the group;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

151 b. To determine whether the domiciliary jurisdiction of a non-United States assuming  
152 insurer is eligible to be recognized as a qualified jurisdiction, the director shall evaluate the  
153 appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both  
154 initially and on an ongoing basis, and consider the rights, benefits, and extent of reciprocal  
155 recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled  
156 in the United States. A qualified jurisdiction shall agree to share information and cooperate with  
157 the director with respect to all certified reinsurers domiciled within that jurisdiction. A  
158 jurisdiction shall not be recognized as a qualified jurisdiction if the director has determined that  
159 the jurisdiction does not adequately and promptly enforce final United States judgments and  
160 arbitration awards. Additional factors may be considered at the discretion of the director.

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

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

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

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

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

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

182 c. If a certified reinsurer maintains a trust to fully secure its obligations under paragraph  
183 (d) of subdivision (4) of this subsection and chooses to secure its obligations incurred as a  
184 certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer shall maintain  
185 separate trust accounts for its obligations incurred under reinsurance agreements issued or  
186 renewed as a certified reinsurer with reduced security as permitted by this subsection or  
187 comparable laws of other United States jurisdictions and for its obligations subject to paragraph  
188 (e) of subdivision (4) of this subsection. It shall be a condition to the grant of certification under  
189 this section that the certified reinsurer shall have bound itself, by the language of the trust and  
190 agreement with the director with principal regulatory oversight of each such trust account, to  
191 fund, upon termination of any such trust account, out of the remaining surplus of such trust any  
192 deficiency of any other such trust account.

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

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

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

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

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

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

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

222 (6) **Credit:**

223 (a) **Shall be allowed when the reinsurance is ceded to an assuming insurer meeting**  
224 **each of the following conditions:**

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

228 (i) **A non-United States jurisdiction that is subject to an in-force covered agreement**  
229 **with the United States, each within its legal authority, or, in the case of a covered**  
230 **agreement between the United States and European Union, is a member state of the**  
231 **European Union. For purposes of this subdivision, a "covered agreement" is an agreement**  
232 **entered into pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection**



233 Act, 31 U.S.C. Sections 313 and 314, that is currently in effect or in a period of provisional  
234 application and addresses the elimination, under specified conditions, of collateral  
235 requirements as a condition for entering into any reinsurance agreement with a ceding  
236 insurer domiciled in this state or for allowing the ceding insurer to recognize credit for  
237 reinsurance;

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

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

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

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

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

259 (i) The assuming insurer shall provide prompt written notice and explanation to  
260 the director if it falls below the minimum requirements set forth in subparagraph b or c  
261 of this paragraph, or if it becomes the subject of regulatory action for serious  
262 noncompliance with applicable law;

263 (ii) The assuming insurer shall consent in writing to the jurisdiction of the courts  
264 of this state and to the appointment of the director as agent for service of process. The  
265 director may require that consent for service of process be provided to the director and  
266 included in each reinsurance agreement. Nothing in this provision shall limit, or in any  
267 way alter, the capacity of parties to a reinsurance agreement to agree to alternative dispute

268 resolution mechanisms, except to the extent such agreements are unenforceable under  
269 applicable insolvency or delinquency laws;

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

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

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

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

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

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

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

298 (b) The director shall timely create and publish a list of reciprocal jurisdictions,  
299 subject to the following:

300 a. A list of reciprocal jurisdictions is published through the NAIC committee  
301 process. The director's list shall include any reciprocal jurisdiction as defined under items  
302 (i) and (ii) of subparagraph a of paragraph (a) of this subdivision, and shall consider any  
303 other reciprocal jurisdiction included on the NAIC list. The director may approve a

304 jurisdiction that does not appear on the NAIC list of reciprocal jurisdictions in accordance  
305 with criteria to be developed under rules promulgated by the director;

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

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

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

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

330       b. If an assuming insurer's eligibility is revoked, no credit for reinsurance may be  
331 granted after the effective date of the revocation with respect to any reinsurance  
332 agreements entered into by the assuming insurer, including reinsurance agreements  
333 entered into prior to the date of revocation, except to the extent that the assuming insurer's  
334 obligations under the contract are secured in a form acceptable to the director and  
335 consistent with the provisions of subsection 2 of this section.

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

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

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

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

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

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

357           **(7) Credit:**

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

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

366           ~~(7)~~ **(8)** If the assuming insurer is not licensed, accredited, or certified to transact  
367 insurance or reinsurance in this state, the credit permitted by subdivisions (3) and (4) of this  
368 subsection shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

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

374           (b) To designate the director or a designated attorney as its true and lawful attorney upon  
375 whom may be served any lawful process in any action, suit or proceeding instituted by or on

376 behalf of the ceding insurer. This paragraph is not intended to conflict with or override the  
377 obligation of the parties to a reinsurance agreement to arbitrate their disputes, if this obligation  
378 is created in the agreement and the jurisdiction and situs of the arbitration is, with respect to any  
379 receivership of the ceding company, any jurisdiction of the United States;

380 ~~[(8)]~~ **(9)** If the assuming insurer does not meet the requirements of subdivision (1), (2)  
381 or (3) of this subsection, the credit permitted by subdivision (4) or (5) of this subsection shall not  
382 be allowed unless the assuming insurer agrees in the trust agreements to the following  
383 conditions:

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

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

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

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

403 ~~[(9)]~~ **(10)** (a) If an accredited or certified reinsurer ceases to meet the requirements for  
404 accreditation or certification, the director may suspend or revoke the reinsurer's accreditation or  
405 certification.

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

408 a. The reinsurer waives its right to hearing;

409 b. The director's order is based on regulatory action by the reinsurer's domiciliary  
410 jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to transact

411 insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state  
412 of the reinsurer under subdivision (5) of this subsection; or

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

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

422 ~~[(10)]~~ (11) (a) A ceding insurer shall take steps to manage its reinsurance recoverables  
423 proportionate to its own book of business. A domestic ceding insurer shall notify the director  
424 within thirty days after reinsurance recoverables from any single assuming insurer or group of  
425 affiliated assuming insurers exceeds fifty percent of the domestic ceding insurer's last reported  
426 surplus to policyholders or after it is determined that reinsurance recoverables from any single  
427 assuming insurer or group of affiliated assuming insurers is likely to exceed such limit. The  
428 notification shall demonstrate that the exposure is safely managed by the domestic ceding  
429 insurer.

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

437 2. An asset or reduction from liability for the reinsurance ceded by a domestic insurer  
438 to an assuming insurer not meeting the requirements of subsection 1 of this section shall be  
439 allowed in an amount not exceeding the liabilities carried by the ceding insurer; **provided that**  
440 **the director may adopt by rule, under subdivision (2) of subsection 4 of this section, specific**  
441 **additional requirements relating to or setting forth the valuation of assets or reserve**  
442 **credits, the amount and forms of security supporting reinsurance arrangements described**  
443 **in subdivision (2) of subsection 4 of this section, or the circumstances under which credit**  
444 **will be reduced or eliminated.** The reduction shall be in the amount of funds held by or on  
445 behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a  
446 reinsurance contract with the assuming insurer as security for the payment of obligations

447 thereunder, if the security is held in the United States subject to withdrawal solely by, and under  
448 the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified United  
449 States financial institution, as defined in subdivision (2) of subsection 3 of this section. This  
450 security may be in the form of:

451 (1) Cash;

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

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

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

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

467 3. (1) For purposes of subdivision (3) of subsection 2 of this section, a "qualified United  
468 States financial institution" means an institution that:

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

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

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

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

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

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

485 4. (1) The director may adopt rules and regulations implementing the provisions of this  
486 section.

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

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

491 a. **Life insurance policies with guaranteed nonlevel gross premiums or guaranteed**  
492 **nonlevel benefits;**

493 b. **Universal life insurance policies with provisions resulting in the ability of a**  
494 **policyholder to keep a policy in force over a secondary guarantee period;**

495 c. **Variable annuities with guaranteed death or living benefits;**

496 d. **Long-term care insurance policies; or**

497 e. **Such other life and health insurance and annuity products as to which the NAIC**  
498 **adopts model regulatory requirements with respect to credit for reinsurance.**

499 (b) **A rule adopted under subparagraph a or b of paragraph (a) of this subdivision**  
500 **shall apply to any treaty containing policies issued after December 31, 2014, or policies**  
501 **issued prior to January 1, 2015, if risk pertaining to such pre-2015 policies is ceded in**  
502 **connection with the treaty, in whole or in part, after December 31, 2014.**

503 (c) **A rule adopted under this subdivision shall require the ceding insurer, in**  
504 **calculating the amounts or forms of security required to be held under rules promulgated**  
505 **under this authority, to use the valuation manual adopted in accordance with subsection**  
506 **6 of section 376.380, including all amendments adopted thereto and in effect on the date**  
507 **the calculation is made, to the extent applicable.**

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

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

515 b. **Is certified in this state; or**

516 c. **Maintains at least two hundred fifty million dollars in capital and surplus when**  
517 **determined in accordance with the NAIC Accounting Practices and Procedures Manual,**



518 **including all amendments thereto adopted by the NAIC, excluding the impact of any**  
519 **permitted or prescribed practices, and is:**

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

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

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

525 5. (1) The director shall disallow any credit as an asset or as a deduction from liability  
526 for any reinsurance found by him to have been arranged for the purpose principally of deception  
527 as to the ceding company's financial condition as of the date of any financial statement of the  
528 company. Without limiting the general purport of this provision, reinsurance of any substantial  
529 part of the company's outstanding risks contracted for in fact within four months prior to the date  
530 of any such financial statement and cancelled in fact within four months after the date of such  
531 statement, or reinsurance under which the assuming insurer bears no substantial insurance risk  
532 or substantial risk of net loss to itself, shall prima facie be deemed to have been arranged for the  
533 purpose principally of deception within the intent of this provision.

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

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

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

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

549 (c) Notwithstanding paragraphs (a) and (b) of this subdivision, in the event that a life and  
550 health insurance guaranty association has made the election to succeed to the rights and  
551 obligations of the insolvent insurer under the contract of reinsurance, then the reinsurer's liability  
552 to pay covered reinsured claims shall continue under the contract of reinsurance, subject to the  
553 payment to the reinsurer of the reinsurance premiums for such coverage. Payment for such

554 reinsured claims shall only be made by the reinsurer pursuant to the direction of the guaranty  
555 association or its designated successor. Any payment made at the direction of the guaranty  
556 association or its designated successor by the reinsurer will discharge the reinsurer of all further  
557 liability to any other party for such claim payment.

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

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

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

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

587 9. The director may suspend the accreditation, approval, or certification under subsection  
588 1 of this section of any reinsurer for failure to comply with the applicable requirements of

589 subsection 1 of this section after providing the affected reinsurer with notice and opportunity for  
590 hearing.

**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 defined in section 409.1-102.**

**2. A life insurance company formed under this chapter may issue funding agreements. Issuing funding agreements shall be considered conducting 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.**

**379.1800. 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 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;**

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

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

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

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

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

40           **(a) The persons eligible for insurance shall be all of the employees of the employers,**  
41 **all of the members of the unions or organizations, or all of any class or classes thereof. The**  
42 **policy may provide that the term "employees" shall include the employees of one or more**  
43 **subsidiary corporations and the employees, individual proprietors, and partners of one or**  
44 **more affiliated corporations, proprietorships, or partnerships are under common control.**  
45 **The policy may provide that the term "employees" shall include the individual proprietor**  
46 **or partners if the employer is an individual proprietorship or partnership. The policy may**  
47 **provide that the term "employees" shall include directors of a corporate employer and**  
48 **retired employees. The policy may provide that the term "employees" shall include the**  
49 **trustees or their employees, or both, if their duties are principally connected with such**  
50 **trusteeship;**

51           **(b) The premium for the policy shall be paid from funds contributed by the**  
52 **employer or employers of the insured persons, by the union or unions or similar employee**  
53 **organizations, or by both, or from funds contributed by the insured persons or from both**

54 the insured persons and the employers or unions or similar employee organizations. A  
55 policy on which no part of the premium is to be derived from funds contributed by the  
56 insured persons specifically for their insurance shall insure all eligible persons, except  
57 those who reject such coverage in writing;

58 (4) A policy issued to an association or to a trust or to the trustees of a fund  
59 established, created, or maintained for the benefit of members of one or more associations.  
60 The association or associations shall have at the outset a minimum of one hundred persons,  
61 shall have been organized and maintained in good faith for purposes other than that of  
62 obtaining insurance, shall have been in active existence for at least one year, and shall have  
63 a constitution and bylaws which provide that the association or associations hold regular  
64 meetings no less than annually to further purposes of the members, that the association or  
65 associations collect dues or solicit contributions from members, and that the members have  
66 voting privileges and representation on the governing board and committees. The policy  
67 shall be subject to the following requirements:

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

71 (b) The premium for the policy shall be paid from funds contributed by the  
72 association or associations, by employer members, or by both, or from funds contributed  
73 by the insured persons or from both the insured persons and the association, associations,  
74 or employer members. A policy on which no part of the premium is to be derived from  
75 funds contributed by the insured persons specifically for their insurance shall insure all  
76 eligible persons, except those who reject such coverage in writing;

77 (c) If compensation of any kind will or may be paid to the policyholder in  
78 connection with the group policy, the insurer shall cause to be distributed to prospective  
79 insureds a written notice that compensation will or may be paid. Such notice shall be  
80 distributed whether such compensation is direct or indirect, and whether such  
81 compensation is paid to or retained by the policyholder, or paid to or retained by a third  
82 party at the direction of the policyholder or any entity affiliated with the policyholder by  
83 ownership, contract, or employment. The notice required by this subsection shall be  
84 placed on or accompany any document designed for the enrollment of prospective  
85 insureds;

86 (5) The definition of an eligible employee or member may include the spouse of the  
87 eligible employee or member.

88 2. Group personal lines property and casualty insurance offered to a resident of  
89 this state under a group personal lines property and casualty insurance policy issued or

90 delivered to a group other than one described in subsection 1 of this section shall be subject  
91 to the following requirements:

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

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

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

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

99 (2) A group personal lines property and casualty insurance coverage shall not be  
100 offered in this state by an insurer under a policy issued or delivered in another state unless  
101 this state or another state having requirements substantially similar to those contained in  
102 subdivision (1) of subsection 2 of this section has made a determination that the  
103 requirements have been met;

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

107 (4) If compensation of any kind will or may be paid to the policyholder in  
108 connection with the group policy, the insurer shall cause to be distributed to prospective  
109 insureds a written notice that compensation will or may be paid. Notice shall be  
110 distributed whether compensation is direct or indirect, and whether such compensation is  
111 paid to or retained by the policyholder or paid to or retained by a third party at the  
112 direction of the policyholder or any entity affiliated with the policyholder by ownership,  
113 contract, or employment. The notice required by this subdivision shall be placed on or  
114 accompany any document designed for the enrollment of prospective insureds.

379.1802. 1. A master policy shall be issued to the policyholder. Eligible employees  
2 or members insured under the master policy shall receive certificates of coverage setting  
3 forth a statement as to the insurance protection to which they are entitled.

4 2. A master policy or certificate of insurance shall not be issued or delivered in this  
5 state unless the master policy form, together with all forms for riders, certificates, and  
6 endorsements to the master policy form, shall have met the applicable filing requirements  
7 in this state. Subsequent amendments to the master policy form shall not be issued or  
8 delivered until they have met the applicable filing requirements in this state.

9 3. The master policy shall set forth the coverages, exclusions, and conditions of the  
10 insurance provided therein, together with the terms and conditions of the agreement

11 between the policyholder and the insurer. The master policy shall make express provisions  
12 for the following:

- 13 (1) Methods of premium collection;
- 14 (2) Enrollment period, effective date provisions, and eligibility standards for  
15 employees or members;
- 16 (3) Termination of the master policy; and
- 17 (4) Conversation privileges of the employees or members.

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

379.1804. 1. The master policy shall provide a basic package of coverages and  
2 limits that are available to all eligible employees or members. The package shall include  
3 at least the minimum coverages and limits of insurance as required by law in that  
4 employee's or member's state of residence or in the state where the subject property is  
5 located, if applicable. In addition, the master policy may provide additional coverages or  
6 limits to be available at an increased premium to employees or members who qualify under  
7 the terms of the master policy.

8 2. The master policy shall provide coverage for all eligible employees or members  
9 who elect coverage during their initial period of eligibility, which period shall be no less  
10 than thirty-one days. Employees or members who do not elect coverage during the initial  
11 period and later request coverage shall be subject to the insurer's underwriting standards.

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

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

- 16 (1) Failure of the employee or member to make required premium contributions;
- 17 (2) Termination of the master policy in its entirety or as to the class to which the  
18 employee or member belongs;
- 19 (3) Discontinuance of the employee's or member's membership in a class eligible  
20 for coverage; or
- 21 (4) Termination of employment or membership.

22 5. If optional coverages or limits are available by law in an employee's or member's  
23 state of residence, the policyholder's acceptance or rejection of the optional coverages or  
24 limits on behalf of the group shall be binding on the employees or members. If the  
25 policyholder rejects any coverages or limits that are required by law to be provided unless

26 rejected by the named insured, notice of the rejection shall be given to the employees or  
27 members at or before the time their certificates of coverage are delivered.

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

       379.1806. 1. No master policy or certificate of insurance shall be issued or delivered  
2 in this state unless the rating plan and amendments thereto used in the determination of  
3 the master policy premium meet the applicable filing requirements in this state.

4         2. Group insurance premium rates shall not be unfairly discriminatory if adjusted  
5 to reflect past and prospective loss experience or group expense factors, or if averaged  
6 broadly among persons insured under the master policy. Such rates shall not be deemed  
7 to be unfairly discriminatory if they do not reflect individual rating factors including  
8 surcharges and discounts required for individual personal lines property and casualty  
9 insurance policies.

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

       379.1808. 1. An insurer issuing or delivering group personal lines property and  
2 casualty insurance shall maintain separate statistics as to the loss and expense experience  
3 pertinent thereto.

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

8         3. (1) No insurer shall issue or deliver a group personal lines property and casualty  
9 insurance policy if:

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



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

15           **(2) The provision under paragraph (b) of subdivision (1) of this subsection shall not**  
16 **be deemed to prohibit the reasonable requirement of safety devices, such as heat detectors,**  
17 **lightning rods, theft prevention equipment, and similar devices. The provision under**  
18 **paragraph (b) of subdivision (1) of this subsection shall not be deemed to prohibit the**  
19 **marketing of "package" or "combination" policies.**

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

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

**379.1810. 1. A person shall not act in this state as an insurance agent or broker in**  
2 **connection with the solicitation, negotiation, or sale of a group personal lines property and**  
3 **casualty insurance policy unless the person is duly licensed in this state as an agent or**  
4 **broker for the applicable lines of insurance. However, the following activities engaged in**  
5 **by the insurer or its employees, or the policyholder or its employees, shall not require the**  
6 **licensing of such entities or persons as insurance agents or brokers:**

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

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

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

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

18           **2. No countersignature requirements shall apply to a group personal lines property**  
19 **and casualty insurance policy that is issued or delivered in this state under the provisions**  
20 **of sections 379.1800 to 379.1816.**

2           **379.1812. 1. Each employee or member covered under the master policy whose**  
3 **coverage thereunder shall terminate for any reason other than the failure to make required**  
4 **contributions toward premiums or at the request of the employee or member shall receive**  
5 **from the insurer thirty days prior written notice of termination or ineligibility. The notice**  
6 **shall state the reasons for discontinuance of coverage under the master policy and shall**  
7 **explain the employee's or member's options for conversion to an individual policy.**

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

14           **3. No individual notice of termination as provided under subsection 1 of this section**  
15 **and no conversion privilege as provided under subsection 2 of this section shall be required**  
16 **if the master policy is replaced by another master policy within thirty days. Coverage**  
17 **under the prior master policy shall terminate when the replacement master policy becomes**  
18 **effective.**

19           **379.1814. 1. No master policy or certificate of insurance shall be issued or delivered**  
2 **in this state unless issued or delivered by an insurer that is duly licensed in this state to**  
3 **write the lines of insurance covered by the master policy or is an eligible nonadmitted**  
4 **insurer pursuant to section 384.021.**

5           **2. The provisions of sections 379.1800 to 379.1816 shall not apply to the mass**  
6 **marketing or any other type of marketing of individual personal lines property and**  
7 **casualty insurance policies.**

8           **3. Sections 379.1800 to 379.1816 shall not apply to policies of credit property or**  
9 **credit casualty insurance that insure the debtors of a creditor or creditors with respect to**  
10 **their indebtedness.**

11           **4. Sections 379.1800 to 379.1816 shall not apply to policies of personal automobile**  
12 **insurance or personal motor vehicle liability insurance, nor shall such sections be**  
13 **construed as authorizing the sale or issuance of personal automobile insurance or personal**  
14 **motor vehicle liability insurance under a group or master policy within this state.**

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

17           **6. Nothing in sections 379.1800 to 379.1816 shall limit the authority of the director**  
18 **with respect to complaints or disputes involving residents of this state arising out of a**  
19 **master policy that has been issued or delivered in another state.**

20           7. The director may promulgate all necessary rules and regulations for the  
21 administration of sections 379.1800 to 379.1816. Any rule or portion of a rule, as that term  
22 is defined in section 536.010, that is created under the authority delegated in this section  
23 shall become effective only if it complies with and is subject to all of the provisions of  
24 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are  
25 nonseverable, and if any of the powers vested with the general assembly pursuant to  
26 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are  
27 subsequently held unconstitutional, then the grant of rulemaking authority and any rule  
28 proposed or adopted after August 28, 2021, shall be invalid and void.

          379.1816. The enactment of sections 379.1800 to 379.1816 shall become effective  
2 January 1, 2022. No master policy or certificate of insurance shall be issued or delivered  
3 in this state after the effective date unless issued or delivered in compliance with sections  
4 379.1800 to 379.1816. A master policy or certificate that is lawfully in effect on January  
5 1, 2022, shall comply with the provisions of sections 379.1800 to 379.1816 within twelve  
6 months of such date.

          384.043. 1. No insurance producer shall procure any contract of surplus lines insurance  
2 with any nonadmitted insurer, unless he possesses a current surplus lines insurance license issued  
3 by the director.

          2. The director shall issue a surplus lines license to any qualified holder of a current  
4 resident or nonresident property and casualty insurance producer license but only when the  
5 licensee has:  
6 licensee has:

7           (1) Remitted the one hundred dollar initial fee to the director;

8           (2) Submitted a completed license application on a form supplied by the director; and

9           (3) Passed a qualifying examination approved by the director, except that all holders of  
10 a license prior to July 1, 1987, shall be deemed to have passed such an examination.

11           3. Each surplus lines license shall be renewed for a term of two years on the ~~[biennial~~  
12 ~~anniversary]~~ birth date of ~~[issuance]~~ the licensee and continue in effect until refused, revoked  
13 or suspended by the director in accordance with section 384.065; except that if the biennial  
14 renewal fee for the license is not paid on or before the ~~[anniversary]~~ birth date of the licensee,  
15 the license terminates. The biennial renewal fee is one hundred dollars.

16           4. Beginning on or before July 1, 2012, the director shall participate in the national  
17 insurance producer database of the National Association of Insurance Commissioners, or any  
18 other equivalent uniform national database, for the licensure of surplus lines licensees and the  
19 renewal of such licenses.

20           5. Notwithstanding any other provision of this chapter, a person selling, soliciting, or  
21 negotiating nonadmitted insurance with respect to an insured shall be required to obtain or

22 possess a current surplus lines insurance license issued by the director only if this state is such  
23 insured's home state.

24 **6. The director may promulgate rules using the authority granted under section**  
25 **375.045 to assist in the implementation of this section, including prorating licensure periods**  
26 **so that all renewals after January 1, 2022, shall occur biennially on a licensee's birth date.**

Section B. Because of the need to provide options for people to comply with The Motor  
2 Vehicle Financial Responsibility Law without violating their religious conscience, the repeal and  
3 reenactment of section 303.220 of section A of this act is deemed necessary for the immediate  
4 preservation of the public health, welfare, peace and safety, and is hereby declared to be an  
5 emergency act within the meaning of the constitution, and the repeal and reenactment of section  
6 303.220 of section A of this act shall be in full force and effect upon its passage and approval.

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