

FIRST REGULAR SESSION

# SENATE BILL NO. 6

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR WIELAND.

0932S.01H

ADRIANE D. CROUSE, Secretary

## AN ACT

To repeal section 375.246, RSMo, and to enact in lieu thereof one new section relating to credit for reinsurance.

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

Section A. Section 375.246, RSMo, is repealed and one new  
2 section enacted in lieu thereof, to be known as section 375.246,  
3 to read as follows:

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

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

19 through which it is entered and licensed to transact  
20 insurance or reinsurance. Credit shall be allowed pursuant  
21 to subdivision (3), (4), or (5) of this subsection only if  
22 the applicable requirements of subdivision [(7)] (8) have  
23 been satisfied.

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

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

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

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

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

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

44 (e) Demonstrate to the satisfaction of the director  
45 that it has adequate financial capacity to meet its  
46 reinsurance obligations and is otherwise qualified to assume  
47 reinsurance from domestic insurers. An assuming insurer is  
48 deemed to meet such requirement as of the time of its  
49 application if it maintains a surplus regarding  
50 policyholders in an amount not less than twenty million

51 dollars and its accreditation has not been denied by the  
52 director within ninety days after submission of its  
53 application;

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

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

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

68 (4) (a) Credit shall be allowed when the reinsurance  
69 is ceded to an assuming insurer that maintains a trust fund  
70 in a qualified United States financial institution, as  
71 defined in subdivision (2) of subsection 3 of this section,  
72 for the payment of the valid claims of its United States  
73 ceding insurers, their assigns and successors in interest.  
74 To enable the director to determine the sufficiency of the  
75 trust fund, the assuming insurer shall report annually to  
76 the director information substantially the same as that  
77 required to be reported on the National Association of  
78 Insurance Commissioners' annual statement form by licensed  
79 insurers. The assuming insurer shall submit to examination  
80 of its books and records by the director.

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

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

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

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

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

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

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

120           b. At any time after the assuming insurer has  
121 permanently discontinued underwriting new business secured  
122 by the trust for at least three full years, the director  
123 with principal regulator oversight of the trust may  
124 authorize a reduction in the required trusteed surplus, but  
125 only after a finding based on an assessment of risk that the  
126 new required surplus level is adequate for the protection of  
127 United States ceding insurers, policyholders, and claimants  
128 in light of reasonably foreseeable adverse loss  
129 development. The risk assessment may involve an actuarial  
130 review, including an independent analysis of reserves and  
131 cash flows, and shall consider all material risk factors  
132 including, when applicable, the lines of business involved,  
133 the stability of the incurred loss estimates, and the effect  
134 of the surplus requirements on the assuming insurer's  
135 liquidity or solvency. The minimum required trusteed  
136 surplus shall not be reduced to an amount less than thirty  
137 percent of the assuming insurer's liabilities attributable  
138 to reinsurance ceded by United States ceding insurers  
139 covered by the trust;

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

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

145 account in an amount not less than the respective  
146 underwriter's several liabilities attributable to business  
147 ceded by United States domiciled ceding insurers to any  
148 underwriter of the group;

149 (ii) For reinsurance ceded under reinsurance  
150 agreements with an inception date on or before December 31,  
151 1992, and not amended or renewed after that date,  
152 notwithstanding the other provisions of this section, the  
153 trust shall consist of a trustee account in an amount not  
154 less than the respective underwriter's several insurance and  
155 reinsurance liabilities attributable to business in the  
156 United States; and

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

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

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

175 (5) (a) Credit shall be allowed when the reinsurance  
176 is ceded to an assuming insurer that has been certified by

177 the director as a reinsurer in this state and secures its  
178 obligations in accordance with the requirements of this  
179 subdivision.

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

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

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

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

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

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

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

206 (c) An association including incorporated and  
207 individual unincorporated underwriters may be a certified

208 reinsurer. To be eligible for certification, in addition to  
209 satisfying requirements of paragraph (b) of this subdivision:

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

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

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

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

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

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

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



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

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

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

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

270 (e) The director shall assign a rating to each  
271 certified reinsurer, giving due consideration to the

272 financial strength ratings that have been assigned by rating  
273 agencies deemed acceptable to the director by rule. The  
274 director shall publish a list of all certified reinsurers  
275 and their ratings.

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

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

288 c. If a certified reinsurer maintains a trust to fully  
289 secure its obligations under paragraph (d) of subdivision  
290 (4) of this subsection and chooses to secure its obligations  
291 incurred as a certified reinsurer in the form of a  
292 multibeneficiary trust, the certified reinsurer shall  
293 maintain separate trust accounts for its obligations  
294 incurred under reinsurance agreements issued or renewed as a  
295 certified reinsurer with reduced security as permitted by  
296 this subsection or comparable laws of other United States  
297 jurisdictions and for its obligations subject to paragraph  
298 (e) of subdivision (4) of this subsection. It shall be a  
299 condition to the grant of certification under this section  
300 that the certified reinsurer shall have bound itself, by the  
301 language of the trust and agreement with the director with  
302 principal regulatory oversight of each such trust account,  
303 to fund, upon termination of any such trust account, out of

304 the remaining surplus of such trust any deficiency of any  
305 other such trust account.

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

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

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

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

333 (iii) If the director continues to assign a higher  
334 rating as permitted by other provisions of this subdivision,  
335 this requirement does not apply to a certified reinsurer in

336 inactive status or to a reinsurer whose certification has  
337 been suspended.

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

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

353 (6) **Credit:**

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

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

361 (i) **A non-United States jurisdiction that is subject**  
362 **to an in-force covered agreement with the United States,**  
363 **each within its legal authority, or, in the case of a**  
364 **covered agreement between the United States and European**  
365 **Union, is a member state of the European Union. For**  
366 **purposes of this subdivision, a "covered agreement" is an**  
367 **agreement entered into pursuant to the Dodd-Frank Wall**

368 Street Reform and Consumer Protection Act, 31 U.S.C.  
369 Sections 313 and 314, that is currently in effect or in a  
370 period of provisional application and addresses the  
371 elimination, under specified conditions, of collateral  
372 requirements as a condition for entering into any  
373 reinsurance agreement with a ceding insurer domiciled in  
374 this state or for allowing the ceding insurer to recognize  
375 credit for reinsurance;

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

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

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

397 c. The assuming insurer shall have and maintain, on an  
398 ongoing basis, a minimum solvency or capital ratio, as  
399 applicable, which shall be set forth by rule. If the

400 assuming insurer is an association, including incorporated  
401 and individual unincorporated underwriters, it shall have  
402 and maintain, on an ongoing basis, a minimum solvency or  
403 capital ratio in the reciprocal jurisdiction where the  
404 assuming insurer has its head office or is domiciled, as  
405 applicable, and is also licensed.

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

409 (i) The assuming insurer shall provide prompt written  
410 notice and explanation to the director if it falls below the  
411 minimum requirements set forth in subparagraphs b or c of  
412 this paragraph, or if any regulatory action is taken against  
413 it for serious noncompliance with applicable law;

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

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

430 (iv) Each reinsurance agreement shall include a  
431 provision requiring the assuming insurer to provide security

432 in an amount equal to one hundred percent of the assuming  
433 insurer's liabilities attributable to reinsurance ceded  
434 pursuant to that agreement if the assuming insurer resists  
435 enforcement of a final judgment that is enforceable under  
436 the law of the jurisdiction in which it was obtained or a  
437 properly enforceable arbitration award, whether obtained by  
438 the ceding insurer or by its legal successor on behalf of  
439 its resolution estate; and

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

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

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

458 g. The assuming insurer's supervisory authority shall  
459 confirm to the director on an annual basis, as of the  
460 preceding December thirty-first or at the annual date  
461 otherwise statutorily reported to the reciprocal  
462 jurisdiction that the assuming insurer complies with the

463 requirements set forth in subparagraphs b. and c. of this  
464 paragraph.

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

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

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

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

491 (c) The director shall timely create and publish a  
492 list of assuming insurers that have satisfied the conditions  
493 set forth in this subdivision and to which cessions shall be  
494 granted credit in accordance with this subdivision. The



495 director may add an assuming insurer to such list if an NAIC  
496 accredited jurisdiction has added such assuming insurer to a  
497 list of such assuming insurers or if, upon initial  
498 eligibility, the assuming insurer submits the information to  
499 the director as required under subparagraph d. of paragraph  
500 (a) of this subdivision and complies with any additional  
501 requirements that the director may adopt by rule, except to  
502 the extent that they conflict with an applicable covered  
503 agreement.

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

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

516 b. If an assuming insurer's eligibility is revoked, no  
517 credit for reinsurance may be granted after the effective  
518 date of the revocation with respect to any reinsurance  
519 agreements entered into by the assuming insurer, including  
520 reinsurance agreements entered into prior to the date of  
521 revocation, except to the extent that the assuming insurer's  
522 obligations under the contract are secured in a form  
523 acceptable to the director and consistent with the  
524 provisions of subsection 2 of this section.

525 (e) If subject to a legal process of rehabilitation,  
526 liquidation, or conservation, as applicable, the ceding

527 insurer, or its representative, may seek and, if determined  
528 appropriate by the court in which the proceedings are  
529 pending, may obtain an order requiring that the assuming  
530 insurer post security for all outstanding ceded liabilities.

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

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

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

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

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

556 (7) Credit:

557 (a) Shall be allowed when the reinsurance is ceded to  
558 an assuming insurer not meeting the requirements of

559 subdivision (1), (2), (3), (4), [or] (5), **or (6)** of this  
560 subsection, but only as to the insurance of risks located in  
561 a jurisdiction of the United States where the reinsurance is  
562 required by applicable law or regulation of that  
563 jurisdiction;

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

571 ~~[(7)]~~ **(8)** If the assuming insurer is not licensed,  
572 accredited, or certified to transact insurance or  
573 reinsurance in this state, the credit permitted by  
574 subdivisions (3) and (4) of this subsection shall not be  
575 allowed unless the assuming insurer agrees in the  
576 reinsurance agreements:

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

585 (b) To designate the director or a designated attorney  
586 as its true and lawful attorney upon whom may be served any  
587 lawful process in any action, suit or proceeding instituted  
588 by or on behalf of the ceding insurer. This paragraph is  
589 not intended to conflict with or override the obligation of  
590 the parties to a reinsurance agreement to arbitrate their

591 disputes, if this obligation is created in the agreement and  
592 the jurisdiction and situs of the arbitration is, with  
593 respect to any receivership of the ceding company, any  
594 jurisdiction of the United States;

595        ~~[(8)]~~ (9) If the assuming insurer does not meet the  
596 requirements of subdivision (1), (2) or (3) of this  
597 subsection, the credit permitted by subdivision (4) or (5)  
598 of this subsection shall not be allowed unless the assuming  
599 insurer agrees in the trust agreements to the following  
600 conditions:

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

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

620        (c) If the commissioner or director with regulatory  
621 oversight determines that the assets of the trust fund or  
622 any part thereof are not necessary to satisfy the claims of

623 the United States ceding insurers of the grantor of the  
624 trust, the assets or part thereof shall be returned by the  
625 commissioner or director with regulatory oversight to the  
626 trustee for distribution in accordance with the trust  
627 agreement; and

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

631 ~~[(9)]~~ **(10)** (a) If an accredited or certified  
632 reinsurer ceases to meet the requirements for accreditation  
633 or certification, the director may suspend or revoke the  
634 reinsurer's accreditation or certification.

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

639 a. The reinsurer waives its right to hearing;

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

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

649 (c) While a reinsurer's accreditation or certification  
650 is suspended, no reinsurance contract issued or renewed  
651 after the effective date of the suspension qualifies for  
652 credit except to the extent that the reinsurer's obligations  
653 under the contract are secured in accordance with  
654 subdivision (5) of this subsection or subsection 2 of this

655 section. If a reinsurer's accreditation or certification is  
656 revoked, no credit for reinsurance shall be granted after  
657 the effective date of the revocation except to the extent  
658 that the reinsurer's obligations under the contract are  
659 secured in accordance with subdivision (5) of this  
660 subsection or subsection 2 of this section.

661        [(10)] **(11)** (a) A ceding insurer shall take steps to  
662 manage its reinsurance recoverables proportionate to its own  
663 book of business. A domestic ceding insurer shall notify  
664 the director within thirty days after reinsurance  
665 recoverables from any single assuming insurer or group of  
666 affiliated assuming insurers exceeds fifty percent of the  
667 domestic ceding insurer's last reported surplus to  
668 policyholders or after it is determined that reinsurance  
669 recoverables from any single assuming insurer or group of  
670 affiliated assuming insurers is likely to exceed such  
671 limit. The notification shall demonstrate that the exposure  
672 is safely managed by the domestic ceding insurer.

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

684        2. An asset or reduction from liability for the  
685 reinsurance ceded by a domestic insurer to an assuming  
686 insurer not meeting the requirements of subsection 1 of this

687 section shall be allowed in an amount not exceeding the  
688 liabilities carried by the ceding insurer; **provided further,**  
689 **that the director may adopt by rule pursuant to subdivision**  
690 **(2) of subsection 4 of this section specific additional**  
691 **requirements relating to or setting forth the valuation of**  
692 **assets or reserve credits, the amount and forms of security**  
693 **supporting reinsurance arrangements described in subdivision**  
694 **(2) of subsection 4 of this section, or the circumstances**  
695 **under which credit will be reduced or eliminated.** The  
696 reduction shall be in the amount of funds held by or on  
697 behalf of the ceding insurer, including funds held in trust  
698 for the ceding insurer, under a reinsurance contract with  
699 the assuming insurer as security for the payment of  
700 obligations thereunder, if the security is held in the  
701 United States subject to withdrawal solely by, and under the  
702 exclusive control of, the ceding insurer; or, in the case of  
703 a trust, held in a qualified United States financial  
704 institution, as defined in subdivision (2) of subsection 3  
705 of this section. This security may be in the form of:

- 706 (1) Cash;
- 707 (2) Securities listed by the securities valuation  
708 office of the National Association of Insurance  
709 Commissioners, including those deemed exempt from filing as  
710 defined by the Purposes and Procedures Manual of the  
711 Securities Valuation Office, and qualifying as admitted  
712 assets;
- 713 (3) (a) Clean, irrevocable, unconditional letters of  
714 credit issued or confirmed by a qualified United States  
715 financial institution, as defined in subdivision (1) of  
716 subsection 3 of this section, no later than December thirty-  
717 first of the year for which filing is being made, and in the

718 possession of, or in trust for, the ceding insurer on or  
719 before the filing date of its annual statement.

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

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

729 3. (1) For purposes of subdivision (3) of subsection  
730 2 of this section, a "qualified United States financial  
731 institution" means an institution that:

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

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

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

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



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

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

757 4. (1) The director may adopt rules and regulations  
758 implementing the provisions of this section.

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

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

764 a. Life insurance policies with guaranteed nonlevel  
765 gross premiums or guaranteed nonlevel benefits;

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

769 c. Variable annuities with guaranteed death or living  
770 benefits;

771 d. Long-term care insurance policies; or

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

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

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

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

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

798           b. Is certified in this state; or

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

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

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

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

812           5. (1) The director shall disallow any credit as an  
813 asset or as a deduction from liability for any reinsurance  
814 found by him to have been arranged for the purpose  
815 principally of deception as to the ceding company's  
816 financial condition as of the date of any financial  
817 statement of the company. Without limiting the general  
818 purport of this provision, reinsurance of any substantial  
819 part of the company's outstanding risks contracted for in  
820 fact within four months prior to the date of any such  
821 financial statement and cancelled in fact within four months  
822 after the date of such statement, or reinsurance under which  
823 the assuming insurer bears no substantial insurance risk or  
824 substantial risk of net loss to itself, shall prima facie be  
825 deemed to have been arranged for the purpose principally of  
826 deception within the intent of this provision.

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

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

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

841           b. Where the assuming insurer, with the consent of it  
842 and the direct insured or insureds in an assumption  
843 reinsurance transaction subject to sections 375.1280 to

844 375.1295, has assumed such policy obligations of the ceding  
845 insurer as direct obligations of the assuming insurer to the  
846 payees under such policies and in substitution for the  
847 obligations of the ceding insurer to such payees.

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

863 (d) The reinsurance agreement may provide that the  
864 domiciliary liquidator of an insolvent ceding insurer shall  
865 give written notice to the assuming insurer of the pendency  
866 of a claim against such ceding insurer on the contract  
867 reinsured within a reasonable time after such claim is filed  
868 in the liquidation proceeding. During the pendency of such  
869 claim, any assuming insurer may investigate such claim and  
870 interpose, at its own expense, in the proceeding where such  
871 claim is to be adjudicated any defenses which it deems  
872 available to the ceding insurer, or its liquidator. Such  
873 expense may be filed as a claim against the insolvent ceding  
874 insurer to the extent of a proportionate share of the  
875 benefit which may accrue to the ceding insurer solely as a

876 result of the defense undertaken by the assuming insurer.  
877 Where two or more assuming insurers are involved in the same  
878 claim and a majority in interest elect to interpose a  
879 defense to such claim, the expense shall be apportioned in  
880 accordance with the terms of the reinsurance agreement as  
881 though such expense had been incurred by the ceding insurer.

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

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

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

908 principles adopted by the NAIC or other accounting  
909 principles approved by the director.

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

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