

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE BILL NO. 6
101ST GENERAL ASSEMBLY

0932H.05C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 303.220, 304.153, 319.131, 375.018, 375.246, 376.421, 379.120, 382.010, 382.110, 382.230, 384.043, 385.220, and 385.320, RSMo, and to enact in lieu thereof twenty-eight new sections relating to insurance.

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

Section A. Sections 303.220, 304.153, 319.131, 375.018, 375.246, 376.421, 379.120, 382.010, 382.110, 382.230, 384.043, 385.220, and 385.320, RSMo, are repealed and twenty-eight new sections enacted in lieu thereof, to be known as sections 41.201, 303.220, 304.153, 319.131, 375.018, 375.029, 375.246, 376.421, 376.2080, 379.120, 379.1800, 379.1803, 379.1806, 379.1809, 379.1812, 379.1815, 379.1818, 379.1821, 379.1824, 382.010, 382.110, 382.176, 382.177, 382.230, 384.043, 385.220, 385.320, and 385.450, to read as follows:

41.201. Members of the Missouri National Guard shall be considered state employees for the purpose of operating state-owned vehicles for official state business, unless such members are called into active federal military service by order of the President under Title 10 of the United States Code.

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.

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.

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

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

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

2 (1) "Law enforcement officer", any public servant, other than a patrol officer, who is
3 defined as a law enforcement officer under section 556.061;

4 (2) "Motor club", ~~[an organization which motor vehicle drivers and owners may join that~~
5 ~~provide certain benefits relating to driving a motor vehicle]~~ **a legal entity that, in consideration**
6 **of dues, assessments, or periodic payments of moneys, promises to provide motor club**
7 **services to its members or subscribers in accordance with section 385.450;**

8 (3) "Patrol officer", a Missouri state highway patrol officer;

9 (4) "Tow list", a list of approved towing companies compiled, maintained, and utilized
10 by the Missouri state highway patrol or its designee;

11 (5) "Tow management company", any sole proprietorship, partnership, corporation,
12 fiduciary, association, or other business entity that manages towing logistics for government
13 agencies or motor clubs;

14 (6) "Tow truck", a rollback or car carrier, wrecker, or tow truck as defined under section
15 301.010;

16 (7) "Towing", moving or removing, or the preparation therefor, of a vehicle by another
17 vehicle for which a service charge is made, either directly or indirectly, including any dues or
18 other charges of clubs or associations which provide towing services;

19 (8) "Towing company", any person, partnership, corporation, fiduciary, association, or
20 other entity that operates a wrecker or towing service as defined under section 301.010.

21 2. In authorizing a towing company to perform services, any patrol officer or law
22 enforcement officer within the officer's jurisdiction, or Missouri department of transportation
23 employee, may utilize the services of a tow management company or tow list, provided:

24 (1) The Missouri state highway patrol is under no obligation to include or retain the
25 services of any towing company in any contract or agreement with a tow management company
26 or any tow list established pursuant to this section. A towing company is subject to removal
27 from a tow list at any time;

28 (2) Notwithstanding any other provision of law or any regulation established pursuant
29 to this section, an owner or operator's request for a specific towing company shall be honored
30 by the Missouri state highway patrol unless:

31 (a) The requested towing company cannot or does not respond in a reasonable time, as
32 determined by a law enforcement officer; or

33 (b) The vehicle to be towed poses an immediate traffic hazard, as determined by a law
34 enforcement officer.

35 3. A patrol officer shall not use a towing company located outside of Missouri under this
36 section except under the following circumstances:

37 (1) A state or federal emergency has been declared; or

38 (2) The driver or owner of the vehicle, or a motor club of which the driver or owner is
39 a member, requests a specific out-of-state towing company.

40 4. A towing company shall not tow a vehicle to a location outside of Missouri without
41 the consent of the driver or owner of the motor vehicle, or without the consent of a motor club
42 of which the driver or owner of the motor vehicle is a member.

43 5. Any towing company or tow truck arriving at the scene of an accident that has not
44 been called by a patrol officer, a law enforcement officer, a Missouri department of
45 transportation employee, the driver or owner of the motor vehicle or his or her authorized agent,
46 including a motor club of which the driver or owner is a member, shall be prohibited from
47 towing the vehicle from the scene of the accident, unless the towing company or tow truck
48 operator is rendering emergency aid in the interest of public safety, or is operating during a
49 declared state of emergency under section 44.100.

50 6. A tow truck operator that stops and tows a vehicle from the scene of an accident in
51 violation of subsection 5 of this section shall be guilty of a class D misdemeanor upon conviction
52 or pleading guilty for the first violation, and such tow truck shall be subject to impounding. The
53 penalty for a second violation shall be a class A misdemeanor, and the penalty for any third or
54 subsequent violation shall be a class D felony. A violation of this section shall not preclude the
55 tow truck operator from being charged with tampering under chapter 569.

56 7. The provisions of this section shall also apply to motor vehicles towed under section
57 304.155 or 304.157.

58 8. The provisions of this section shall not apply to counties of the third or fourth
59 classification.

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
38 twenty-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.**

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

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

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

5 **2. (1) Subject to approval by the director, an insurance producer's active**
6 **participation as an individual member or employee of a business entity producer member**
7 **of a local, regional, state, or national professional insurance association may be approved**
8 **for up to four hours of continuing education credit per each biennial reporting period.**

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

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

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

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 (1) [~~to~~] , (2), (3), (4), (5), (6), or (7) of this subsection;
4 **provided further, that the director may adopt by rule under subdivision (2) of subsection**
5 **4 of this section specific additional requirements relating to or setting forth the valuation**
6 **of assets or reserve credits, the amount and forms of security supporting reinsurance**
7 **arrangements described in subdivision (2) of subsection 4 of this section, or the**
8 **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)** 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 trustee 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 trustee 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 trustee 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 trustee 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 trustee 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

127 director, both with respect to an initial application for certification and on 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 conditions set forth below:**

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:**

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 pursuant to paragraph
241 (d) of subdivision (5) of this subsection, that is not otherwise described in item (i) or (ii) of
242 this subparagraph and that meets certain additional requirements, consistent with the
243 terms 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, that 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 subparagraphs b or c
261 of this paragraph or if any regulatory action is taken against it for serious noncompliance
262 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 has 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, should the
284 assuming insurer enter into such a solvent scheme of arrangement. Such security shall be
285 in a form consistent with the provisions of subdivision (5) of this subsection and subsection
286 2 of this 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 a. A list of reciprocal jurisdictions is published through the NAIC committee
300 process. The director's list shall include any reciprocal jurisdiction as defined under items
301 (i) and (ii) of subparagraph a. of paragraph (a) of this subdivision and shall consider any
302 other reciprocal jurisdiction included on the NAIC list. The director may approve a

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

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

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

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

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

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

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

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

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

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~~] (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~~] (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**
440 **further, that the director may adopt by rule pursuant to subdivision (2) of subsection 4 of**
441 **this section specific additional requirements relating to or setting forth the valuation of**
442 **assets or reserve credits, the amount and forms of security supporting reinsurance**
443 **arrangements described in subdivision (2) of subsection 4 of this section or the**
444 **circumstances under which credit will be reduced or eliminated.** The reduction shall be in

445 the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for
446 the ceding insurer, under a reinsurance contract with the assuming insurer as security for the
447 payment of obligations thereunder, if the security is held in the United States subject to
448 withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a
449 trust, held in a qualified United States financial institution, as defined in subdivision (2) of
450 subsection 3 of this section. This 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 subparagraphs a or b of paragraph (a) of this subdivision**
500 **may apply to any treaty containing policies issued on or after January 1, 2015, 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, on or after January 1, 2015.**

503 (c) **A rule adopted under this subdivision may 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 **as of which 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.

 376.421. 1. Except as provided in subsection 2 of this section, no policy of group health
2 insurance shall be delivered in this state unless it conforms to one of the following descriptions:

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

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

18 (b) The premium for the policy shall be paid either from the employer's funds or from
19 funds contributed by the insured employees, or from both. Except as provided in paragraph (c)
20 of this subdivision, a policy on which no part of the premium is to be derived from funds
21 contributed by the insured employees must insure all eligible employees, except those who reject
22 such coverage in writing; and

23 (c) An insurer may exclude or limit the coverage on any person as to whom evidence of
24 individual insurability is not satisfactory to the insurer in a policy insuring fewer than ten
25 employees and in a policy insuring ten or more employees if:

26 a. Application is not made within thirty-one days after the date of eligibility for
27 insurance; or

28 b. The person voluntarily terminated the insurance while continuing to be eligible for
29 insurance under the policy; or

30 c. After the expiration of an open enrollment period during which the person could have
31 enrolled for the insurance or could have elected another level of benefits under the policy;

32 (2) A policy issued to a creditor or its parent holding company or to a trustee or trustees
33 or agent designated by two or more creditors, which creditor, holding company, affiliate, trustee,
34 trustees or agent shall be deemed the policyholder, to insure debtors of the creditor or creditors
35 with respect to their indebtedness subject to the following requirements:

36 (a) The debtors eligible for insurance under the policy shall be all of the debtors of the
37 creditor or creditors, or all of any class or classes thereof. The policy may provide that the term
38 debtors shall include:

39 a. Borrowers of money or purchasers or lessees of goods, services, or property for which
40 payment is arranged through a credit transaction;

41 b. The debtors of one or more subsidiary corporations; and

42 c. The debtors of one or more affiliated corporations, proprietorships or partnerships if
43 the business of the policyholder and of such affiliated corporations, proprietorships or
44 partnerships is under common control;

45 (b) The premium for the policy shall be paid either from the creditor's funds or from
46 charges collected from the insured debtors, or from both. Except as provided in paragraph (c)
47 of this subdivision, a policy on which no part of the premium is to be derived from funds
48 contributed by insured debtors specifically for their insurance must insure all eligible debtors;

49 (c) An insurer may exclude any debtors as to whom evidence of individual insurability
50 is not satisfactory to the insurer in a policy insuring fewer than ten debtors and in a policy
51 insuring ten or more debtors if:

52 a. Application is not made within thirty-one days after the date of eligibility for
53 insurance; or

54 b. The person voluntarily terminated the insurance while continuing to be eligible for
55 insurance under the policy; or

56 c. After the expiration of an open enrollment period during which the person could have
57 enrolled for the insurance or could have elected another level of benefits under the policy;

58 (d) The total amount of insurance payable with respect to an indebtedness shall not
59 exceed the greater of the scheduled or actual amount of unpaid indebtedness to the creditor. The
60 insurer may exclude any payments which are delinquent on the date the debtor becomes disabled
61 as defined in the policy;

62 (e) The insurance may be payable to the creditor or to any successor to the right, title,
63 and interest of the creditor. Such payment or payments shall reduce or extinguish the unpaid
64 indebtedness of the debtor to the extent of each such payment and any excess of insurance shall
65 be payable to the insured or the estate of the insured;

66 (f) Notwithstanding the preceding provisions of this subdivision, insurance on
67 agricultural credit transaction commitments may be written up to the amount of the loan

68 commitment, and insurance on educational credit transaction commitments may be written up
69 to the amount of the loan commitment less the amount of any repayments made on the loan;

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

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

76 (b) The premium for the policy shall be paid either from funds of the union or
77 organization or from funds contributed by the insured members specifically for their insurance,
78 or from both. Except as provided in paragraph (c) of this subdivision, a policy on which no part
79 of the premium is to be derived from funds contributed by the insured members specifically for
80 their insurance must insure all eligible members, except those who reject such coverage in
81 writing;

82 (c) An insurer may exclude or limit the coverage on any person as to whom evidence of
83 individual insurability is not satisfactory to the insurer in a policy insuring fewer than ten
84 members and in a policy insuring ten or more members if:

85 a. Application is not made within thirty-one days after the date of eligibility for
86 insurance; or

87 b. The person voluntarily terminated the insurance while continuing to be eligible for
88 insurance under the policy; or

89 c. After the expiration of an open enrollment period during which the person could have
90 enrolled for the insurance or could have elected another level of benefits under the policy;

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

97 (a) The persons eligible for insurance shall be all of the employees of the employers or
98 all of the members of the unions or organizations, or all of any class or classes thereof. The
99 policy may provide that the term employees shall include the employees of one or more
100 subsidiary corporations, and the employees, individual proprietors, and partners of one or more
101 affiliated corporations, proprietorships or partnerships if the business of the employer and of such
102 affiliated corporations, proprietorships or partnerships is under common control. The policy may
103 provide that the term employees shall include the individual proprietor or partners if the

104 employer is an individual proprietorship or partnership. The policy may provide that the term
105 employees shall include retired employees, former employees and directors of a corporate
106 employer. The policy may provide that the term employees shall include the trustees or their
107 employees, or both, if their duties are principally connected with such trusteeship;

108 (b) The premium for the policy shall be paid from funds contributed by the employer or
109 employers of the insured persons or by the union or unions or similar employee organizations,
110 or by both, or from funds contributed by the insured persons or from both the insured persons
111 and the employer or union or similar employee organization. Except as provided in paragraph
112 (c) of this subdivision, a policy on which no part of the premium is to be derived from funds
113 contributed by the insured persons specifically for their insurance, must insure all eligible
114 persons except those who reject such coverage in writing;

115 (c) An insurer may exclude or limit the coverage on any person as to whom evidence of
116 individual insurability is not satisfactory to the insurer;

117 (5) A policy issued to an association or to a trust or to the trustees of a fund established,
118 created and maintained for the benefit of members of one or more associations. The association
119 or associations shall have at the outset a minimum of fifty members; shall have been organized
120 and maintained in good faith ~~[for purposes other than that of obtaining insurance; shall have been~~
121 ~~in active existence for at least two years]~~; shall have a constitution and bylaws which provide that
122 the association or associations shall hold regular meetings not less than annually to further the
123 purposes of the members; shall, except for credit unions, collect dues or solicit contributions
124 from members; and shall provide the members with voting privileges and representation on the
125 governing board and committees. The policy shall be subject to the following requirements:

126 (a) The policy may insure members of such association or associations, employees
127 thereof, or employees of members, or one or more of the preceding, or all of any class or classes
128 thereof for the benefit of persons other than the employee's employer;

129 (b) The premium for the policy shall be paid from funds contributed by the association
130 or associations or by employer members, or by both, or from funds contributed by the covered
131 persons or from both the covered persons and the association, associations, or employer
132 members;

133 (c) Except as provided in paragraph (d) of this subdivision, a policy on which no part of
134 the premium is to be derived from funds contributed by the covered persons specifically for their
135 insurance must insure all eligible persons, except those who reject such coverage in writing;

136 (d) An insurer may exclude or limit the coverage on any person as to whom evidence of
137 individual insurability is not satisfactory to the insurer;

138 (e) If the health benefit plan, as defined in section 376.1350, is delivered, issued for
139 delivery, continued or renewed, is providing coverage to any resident of this state, and is

140 providing coverage to sole proprietors, self-employed persons, small employers as defined in
141 subsection 2 of section 379.930, and large employers, the insurer providing the coverage to the
142 association or trust or trustees of a fund established, created, and maintained for the benefit of
143 members of one or more associations may be exempt from subdivision (1) of subsection 1 of
144 section 379.936 as it relates to the association plans established under this section. The director
145 shall find that an exemption would be in the public interest and approved and that additional
146 classes of business may be approved under subsection 4 of section 379.934 if the director
147 determines that the health benefit plan:

- 148 a. Is underwritten and rated as a single employer;
- 149 b. Has a uniform health benefit plan design option or options for all participating
150 association members or employers;
- 151 c. Has guarantee issue to all association members and all eligible employees, as defined
152 in subsection 2 of section 379.930, of any participating association member company; and
- 153 d. Complies with all other federal and state insurance requirements, including but not
154 limited to the small employer health insurance and availability act under sections 379.930 to
155 379.952;

156 (6) A policy issued to a credit union or to a trustee or trustees or agent designated by two
157 or more credit unions, which credit union, trustee, trustees or agent shall be deemed the
158 policyholder, to insure members of such credit union or credit unions for the benefit of persons
159 other than the credit union or credit unions, trustee or trustees, or agent or any of their officials,
160 subject to the following requirements:

- 161 (a) The members eligible for insurance shall be all of the members of the credit union
162 or credit unions, or all of any class or classes thereof;
- 163 (b) The premium for the policy shall be paid by the policyholder from the credit union's
164 funds and, except as provided in paragraph (c) of this subdivision, must insure all eligible
165 members;
- 166 (c) An insurer may exclude or limit the coverage on any member as to whom evidence
167 of individual insurability is not satisfactory to the insurer;

168 (7) A policy issued to cover persons in a group where that group is specifically described
169 by a law of this state as one which may be covered for group life insurance. The provisions of
170 such law relating to eligibility and evidence of insurability shall apply.

171 2. Group health insurance offered to a resident of this state under a group health
172 insurance policy issued to a group other than one described in subsection 1 of this section shall
173 be subject to the following requirements:

- 174 (1) No such group health insurance policy shall be delivered in this state unless the
175 director finds that:

- 176 (a) The issuance of such group policy is not contrary to the best interest of the public;
- 177 (b) The issuance of the group policy would result in economies of acquisition or
178 administration; and
- 179 (c) The benefits are reasonable in relation to the premiums charged;
- 180 (2) No such group health insurance coverage may be offered in this state by an insurer
181 under a policy issued in another state unless this state or another state having requirements
182 substantially similar to those contained in subdivision (1) of this subsection has made a
183 determination that such requirements have been met;
- 184 (3) The premium for the policy shall be paid either from the policyholder's funds, or
185 from funds contributed by the covered persons, or from both;
- 186 (4) An insurer may exclude or limit the coverage on any person as to whom evidence of
187 individual insurability is not satisfactory to the insurer.

188 3. As used in this section, insurer shall have the same meaning as the definition of health
189 carrier under section 376.1350, and "class" means a predefined group of persons eligible for
190 coverage under a group insurance policy where members of a class represent the same or
191 essentially the same hazard; except that, an insurer may offer a policy to an employer that
192 charges a reduced premium rate or deductible for employees who do not smoke or use tobacco
193 products as authorized under section 290.145, and such insurer shall not be considered to be in
194 violation of any unfair trade practice, as defined in section 379.936, even if only some employers
195 elect to purchase such a policy and other employers do not.

**376.2080. 1. As used in this chapter and chapter 375, the term "funding
2 agreement" means an agreement for an insurer to accept and accumulate funds and to
3 make one or more payments at future dates in amounts that are not based on mortality or
4 morbidity contingencies of the person to whom the funding agreement is issued. A funding
5 agreement shall not be deemed to constitute a security, as such term is defined in section
6 409.1-102.**

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

**10 3. The director may promulgate rules as necessary for the implementation of this
11 section. Any rule or portion of a rule, as that term is defined in section 536.010, that is
12 created under the authority delegated in this section shall become effective only if it
13 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
14 section 536.028. This section and chapter 536 are nonseverable and if any of the powers
15 vested with the general assembly pursuant to chapter 536 to review, to delay the effective
16 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**

17 **grant of rule making authority and any rule proposed or adopted after August 28, 2021,**
18 **shall be invalid and void.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

72

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

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

77 b. The premium for the policy shall be paid from funds contributed by the
78 association or associations, by employer members, or by both; from funds contributed by
79 the insured persons or from both the insured persons and the association; associations; or
80 employer members. A policy on which no part of the premium is to be derived from funds
81 contributed by the insured persons specifically for their insurance shall insure all eligible
82 persons, except those who reject such coverage in writing; and

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

86 (i) Whether compensation is direct or indirect; and

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

90

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

93

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

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

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

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

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

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

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

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

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

119 (a) Whether compensation is direct or indirect; and

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

123

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

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

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

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

(1) Methods of premium collection;

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

(3) Termination of the master policy; and

(4) Conversion privileges of the employees or members.

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

379.1806. 1. The master policy shall provide a basic package of coverages and limits that are available to all eligible employees or members. The package shall include at least the minimum coverages and limits of insurance as required by law in that employee's or member's state of residence or in the state where the subject property is located, if applicable. In addition, the master policy may provide additional coverages or limits to be available at an increased premium to employees or members who qualify under the terms of the master policy.

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

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

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.**

379.1809. 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 have met the applicable filing requirements in this state.**

4 **2. Group insurance premium rates shall not be deemed unfairly discriminatory if**
5 **adjusted to reflect past and prospective loss experience or group expense factors or if**
6 **averaged broadly among persons insured under the master policy. Nor shall such rates**
7 **be deemed to be unfairly discriminatory if they do not reflect individual rating factors,**
8 **including surcharges and discounts required for individual personal lines property and**
9 **casualty 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.**

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

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

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

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

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

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

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

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

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

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

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

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

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 **or 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 pursuant to the**
20 **provisions of sections 379.1800 to 379.1824.**

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

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

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

379.1821. 1. No master policy or certificate of insurance shall be issued or delivered
2 **in this state unless issued or delivered by an insurer which 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 379.1824 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 379.1824 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 379.1824 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 379.1824 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 rules as necessary to implement and administer**
21 **the provisions of sections 379.1800 to 379.1824. 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.**

379.1824. The provisions of sections 379.1800 to 379.1824 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 379.1824. 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 379.1824 within twelve**
6 **months of such date.**

 382.010. As used in sections 382.010 to 382.300, the following words and terms have
2 the meanings indicated unless the context clearly requires otherwise:

3 (1) An "affiliate" of, or person "affiliated" with, a specific person, is a person that
4 directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is
5 under common control with, the person specified;

6 (2) "Control", "controlling", "controlled by", or "under common control with", the
7 possession, direct or indirect, of the power to direct or cause the direction of the management and
8 policies of a person, whether through the ownership of voting securities, by contract other than
9 a commercial contract for goods or nonmanagement services, or otherwise, unless the power is

10 the result of an official position with or corporate office held by the person. Control shall be
11 presumed to exist if any person, directly or indirectly, owns, controls, holds with power to vote,
12 or holds proxies representing, ten percent or more of the voting securities of any other person.
13 This presumption may be rebutted by a showing made in the manner provided by section
14 382.170 that control does not exist in fact. The director may determine, after furnishing all
15 persons in interest notice and opportunity to be heard and making specific findings of fact to
16 support such determination, that control exists in fact, notwithstanding the absence of a
17 presumption to that effect;

18 (3) "Director", the director of the department of commerce and insurance, his or her
19 deputies, or the department of commerce and insurance, as appropriate;

20 (4) "Enterprise risk", any activity, circumstance, event, or series of events involving one
21 or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse
22 effect upon the financial condition or liquidity of the insurer or its insurance holding company
23 system as a whole including, but not limited to, anything that would cause the insurer's
24 risk-based capital to fall into company action level as set forth in section 375.1255 or would
25 cause the insurer to be in hazardous financial condition as set forth in section 375.539;

26 (5) "Groupwide supervisor", the regulatory official authorized to engage in conducting
27 and coordinating groupwide supervisory activities who is determined or acknowledged by the
28 director, under section 382.227, to have sufficient significant contacts with the internationally
29 active insurance group;

30 (6) "Insurance holding company system", two or more affiliated persons, one or more
31 of which is an insurer;

32 (7) "Insurer", an insurance company as defined in section 375.012, including a reciprocal
33 or interinsurance exchange, and which is qualified and licensed by the department of commerce
34 and insurance of Missouri to transact the business of insurance in this state; but it shall not
35 include any company organized and doing business under chapter 377, 378, or 380, agencies,
36 authorities, or instrumentalities of the United States, its possessions and territories, the
37 Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of
38 a state;

39 (8) "Internationally active insurance group", an insurance holding company system that
40 includes an insurer registered under sections 382.100 to 382.180, and meets the following
41 criteria:

42 (a) Premiums written in at least three countries;

43 (b) The percentage of gross premiums written outside the United States is at least ten
44 percent of the insurance holding company system's total gross written premiums; and

45 (c) Based on a three-year rolling average, the total assets of the insurance holding
46 company system are at least fifty billion dollars, or the total gross written premiums of the
47 insurance holding company system are at least ten billion dollars;

48 (9) "NAIC", the National Association of Insurance Commissioners;

49 (10) "National Association of Insurance Commissioners (NAIC) group capital
50 calculation instructions", the group capital calculation instructions as adopted by the
51 NAIC and as amended by the NAIC from time to time in accordance with the procedures
52 adopted by the NAIC;

53 (11) "NAIC liquidity stress test framework", a separate NAIC publication that
54 includes a history of the NAIC's development of regulatory liquidity stress testing, the
55 scope criteria applicable for a specific data year, and the liquidity stress test instructions,
56 and reporting such scope criteria, instructions and reporting template being as adopted by
57 the NAIC and as amended by the NAIC from time to time in accordance with procedures
58 adopted by the NAIC;

59 (12) "Person", an individual, corporation, limited liability company, partnership,
60 association, joint stock company, trust, unincorporated organization, or any similar entity, or any
61 combination of the foregoing acting in concert, but shall not include any joint venture partnership
62 exclusively engaged in owning, managing, leasing, or developing real or tangible personal
63 property;

64 (13) "Scope criteria", as detailed in the NAIC liquidity stress test framework, the
65 designated exposure bases along with minimum magnitudes of such exposure bases for the
66 specified data year used to establish a preliminary list of insurers considered scoped into
67 the NAIC liquidity stress test framework for that data year;

68 ~~[(10)]~~ (14) A "securityholder" of a specified person is one who owns any security of that
69 person, including common stock, preferred stock, debt obligations, and any other security
70 convertible into or evidencing the right to acquire any of the foregoing;

71 ~~[(11)]~~ (15) A "subsidiary" of a specified person is an affiliate controlled by that person
72 directly, or indirectly through one or more intermediaries;

73 ~~[(12)]~~ (16) The term "voting security" includes any security convertible into or
74 evidencing a right to acquire a voting security.

382.110. 1. Every insurer subject to registration shall file a registration statement on a
2 form provided by the director containing current information about:

3 (1) The capital structure, general financial condition, ownership and management of the
4 insurer and any person controlling the insurer;

5 (2) The identity of every member of the insurance holding company system;

6 (3) The following agreements in force, relationships subsisting, and transactions
7 currently outstanding between the insurer and its affiliates:

8 (a) Loans, other investments, or purchases, sales or exchanges of securities of the
9 affiliates by the insurer or of the insurer by its affiliates;

10 (b) Purchases, sales, or exchanges of assets;

11 (c) Transactions not in the ordinary course of business;

12 (d) Guarantees or undertakings for the benefit of an affiliate which result in an actual
13 contingent exposure of the insurer's assets to liability, other than insurance contracts entered into
14 in the ordinary course of the insurer's business;

15 (e) All management and service contracts and all cost-sharing arrangements; ~~and~~

16 (f) Reinsurance agreements;

17 (g) Dividends and other distributions to shareholders; and

18 (h) Consolidated tax allocation agreements;

19 (4) Any pledge of the insurer's stock, including stock of any subsidiary or controlling
20 affiliate, for a loan made to any member of the insurance holding company system;

21 (5) Financial statements of or within an insurance holding company system, including
22 all affiliates, if requested by the director. Financial statements may include, but are not limited
23 to, annual audited financial statements filed with the United States Securities and Exchange
24 Commission (SEC) under the Securities Act of 1933, as amended, or the Securities Exchange
25 Act of 1934, as amended. An insurer required to file financial statements under this subdivision
26 may satisfy such requirement by providing the director with the most recently filed parent
27 corporation financial statements that have been filed with the SEC;

28 (6) Statements that the insurer's board of directors oversees corporate governance and
29 internal controls and that the insurer's officers or senior management have approved,
30 implemented, and continue to maintain and monitor corporate governance and internal control
31 procedures;

32 (7) Other matters concerning transactions between registered insurers and any affiliates
33 as may be included from time to time in any registration forms adopted or approved by the
34 director; and

35 (8) Any other information required by the director by rule.

36 2. All registration statements shall contain a summary outlining all items in the current
37 registration statement representing changes from the prior registration statement.

38 3. No information need be disclosed on the registration statement filed pursuant to
39 subsection 1 of this section if such information is not material for the purposes of that subsection.
40 Unless the director by rule, regulation or order provides otherwise, sales, purchases, exchanges,
41 loans or extensions of credit, or investments, involving one-half of one percent or less of an

42 insurer's admitted assets as of the thirty-first day of December next preceding shall not be
43 deemed material for purposes of subsection 1 of this section. **The definition of “materiality”**
44 **used in this subsection shall not apply to the group capital calculation or the liquidity stress**
45 **test framework.**

46 4. Any person within an insurance holding company system subject to registration shall
47 be required to provide complete and accurate information to an insurer, where such information
48 is reasonably necessary to enable the insurer to comply with the provisions of sections 382.010
49 to 382.300.

382.176. 1. Except as provided in subdivisions (1) to (7) of this section, the ultimate
2 **controlling person of every insurer subject to registration shall file an annual group capital**
3 **calculation as directed by the lead state director. The report shall be completed in**
4 **accordance with the NAIC group capital calculation instructions, which may permit the**
5 **lead state director to allow a controlling person who is not the ultimate controlling person**
6 **to file the group capital calculation. The report shall be filed with the lead state director**
7 **of the insurance holding company system as determined by the director in accordance with**
8 **the procedures within the Financial Analysis Handbook adopted by the NAIC. The**
9 **following insurance holding company systems are exempt from filing the group capital**
10 **calculation:**

11 (1) **An insurance holding company system that has only one insurer within its**
12 **holding company structure, that only writes business and is only licensed in its domestic**
13 **state, and assumes no business from any other insurer;**

14 (2) **An insurance holding company system that is required to perform a group**
15 **capital calculation specified by the United States Federal Reserve Board. The lead state**
16 **director shall request the calculation from the Federal Reserve Board under the terms of**
17 **information sharing agreements in effect. If the Federal Reserve Board cannot share the**
18 **calculation with the lead state director, the insurance holding company system is not**
19 **exempt from the group capital calculation filing;**

20 (3) **An insurance holding company system whose non-U.S. group-wide supervisor**
21 **is located within a reciprocal jurisdiction as described in section 375.246 that recognizes**
22 **the U.S. state regulatory approach to group supervision and group capital; and**

23 (4) **An insurance holding company system:**

24 (a) **That provides information to the lead state that meets the requirements for**
25 **accreditation under the NAIC financial standards and accreditation program, either**
26 **directly or indirectly through the group-wide supervisor, who has determined such**
27 **information is satisfactory to allow the lead state to comply with the NAIC group**

28 supervision approach, as detailed in the Financial Analysis Handbook adopted by the
29 NAIC; and

30 (b) Whose non-U.S. group-wide supervisor who is not in a reciprocal jurisdiction
31 recognizes and accepts, as specified by the director in regulation, the group capital
32 calculation as the worldwide group capital assessment for U.S. insurance groups that
33 operate in that jurisdiction.

34 2. Notwithstanding the provisions of subdivision (3) and (4) of subsection 1 of this
35 section, a lead state director shall require the group capital calculation for U.S. operations
36 of any non-U.S. based insurance holding company system where, after any necessary
37 consultation with other supervisors or officials, it is deemed appropriate by the lead state
38 director for prudential oversight and solvency monitoring purposes or for ensuring the
39 competitiveness of the insurance marketplace.

40 3. Notwithstanding the exemptions from filing the group capital calculation stated
41 in subdivisions (1) to (4) of subsection 1 of this section, the lead state director has the
42 discretion to exempt the ultimate controlling person from filing the annual group capital
43 calculation or to accept a limited group capital filing or report in accordance with criteria
44 as specified in regulations promulgated by the director.

45 4. If the lead state director determines that an insurance holding company system
46 no longer meets one or more of the requirements for an exemption from filing the group
47 capital calculation under this section, the insurance holding company system shall file the
48 group capital calculation at the next annual filing date unless given an extension by the
49 lead state director based on reasonable grounds shown.

382.177. The ultimate controlling person of every insurer subject to registration
2 and also scoped into the NAIC liquidity stress test framework shall file the results of a
3 specific year's liquidity stress test. The filing shall be made to the lead state insurance
4 director of the insurance holding company system as determined by the procedures within
5 the Financial Analysis Handbook adopted by the NAIC:

6 (1) The NAIC liquidity stress test framework includes scope criteria applicable to
7 a specific data year. These scope criteria are reviewed at least annually by the NAIC's
8 financial stability task force or its successor. Any change to the NAIC liquidity stress test
9 framework or to the data year for which the scope criteria are to be measured shall be
10 effective on January first of the year following the calendar year in which such changes are
11 adopted. Insurers meeting at least one threshold of the scope criteria are considered
12 scoped into the NAIC liquidity stress test framework for the specified data year unless the
13 lead state insurance director, in consultation with the NAIC financial stability task force
14 or its successor, determines the insurer shall not be scoped into the framework for that

15 **data year. Similarly, insurers that do not trigger at least one threshold of the scope criteria**
16 **are considered scoped out of the NAIC liquidity stress test framework for the specified**
17 **data year unless the lead state insurance director, in consultation with the NAIC financial**
18 **stability task force or its successor, determines the insurer shall be scoped into the**
19 **framework for that data year. Regulators wish to avoid having insurers scoped into and**
20 **out of the NAIC liquidity stress test framework on a frequent basis, the lead state**
21 **insurance director, in consultation with the financial stability task force or its successor,**
22 **shall assess this concern as part of the determination for an insurer.**

23 **(2) The performance of, and filing of the results from, a specific year's liquidity**
24 **stress test shall comply with the NAIC liquidity stress test framework's instructions and**
25 **reporting templates for that year and any lead state insurance director determinations, in**
26 **conjunction with the financial stability task force or its successor, provided within the**
27 **framework.**

382.230. 1. All information, documents and copies thereof in the possession or control
2 of the director that are obtained by or disclosed to the director or any other person in the course
3 of an examination or investigation made under section 382.220 and all information reported or
4 provided to the director under subdivisions (13) and (14) of subsection 1 of section 382.050,
5 sections 382.100 to 382.210, and section 382.227 **are considered proprietary and to contain**
6 **trade secrets and** shall be given confidential treatment and privileges; shall not be subject to the
7 provisions of chapter 610; shall not be subject to subpoena; shall not be made public by the
8 director, the National Association of Insurance Commissioners, or any other person, except to
9 the chief insurance regulatory official of other states; and shall not be subject to discovery or
10 admissible as evidence in any private civil action. However, the director is authorized to use the
11 documents, materials, or other information in furtherance of any regulatory or legal action
12 brought as a part of the director's official duties. The director shall not otherwise make the
13 documents, materials, or other information public without the prior written consent of the insurer
14 to which it pertains unless the director, after giving the insurer and its affiliates who would be
15 affected thereby, notice and opportunity to be heard, determines that the interests of
16 policyholders, shareholders or the public will be served by the publication thereof, in which
17 event the director may publish all or any part thereof in such manner as he or she may deem
18 appropriate.

19 **(1) For purposes of the information reported and provided to the department of**
20 **commerce and insurance under section 382.176, the director shall maintain the**
21 **confidentiality of the group capital calculation and group capital ratio produced within the**
22 **calculation and any group capital information received from an insurance holding**
23 **company supervised by the Federal Reserve Board or any U.S. group-wide supervisor.**

24 (2) For purposes of the information reported and provided to the department of
25 commerce and insurance under section 382.177, the director shall maintain the
26 confidentiality of the liquidity stress test results and supporting disclosures and any
27 liquidity stress test information received from an insurance holding company supervised
28 by the Federal Reserve Board and non-U.S. group-wide supervisors.

29 2. Neither the director nor any person who receives documents, materials, or other
30 information while acting under the authority of the director or with whom such documents,
31 materials, or other information is shared under sections 382.010 to 382.300 shall be permitted
32 or required to testify in any private civil action concerning any confidential documents, materials,
33 or other information subject to subsection 1 of this section.

34 3. In order to assist in the performance of the director's duties, the director:

35 (1) May share documents, materials, or other information including the confidential and
36 privileged documents, materials, or other information subject to subsection 1 of this section,
37 including proprietary and trade secret documents and materials, with other state, federal,
38 and international financial regulatory agencies, with the National Association of Insurance
39 Commissioners [~~and its affiliates and subsidiaries~~], with any third-party consultants
40 designated by the director, and with state, federal, and international law enforcement
41 authorities including members of any supervisory college described in section 382.225; provided
42 that the recipient agrees in writing to maintain the confidentiality and privileged status of such
43 documents, materials, or other information, and has verified in writing the legal authority to
44 maintain confidentiality;

45 (2) Notwithstanding the provisions of subsection 1 of this section and subdivision (1)
46 of this subsection, may share confidential and privileged documents, materials, or other
47 information reported under section 382.175 only with the directors of states having statutes or
48 regulations substantially similar to subsection 1 of this section and who have agreed in writing
49 not to disclose such information;

50 (3) May receive documents, materials, or other information including otherwise
51 confidential and privileged documents, materials, or information, including proprietary and
52 trade secret information, from the National Association of Insurance Commissioners and its
53 affiliates and subsidiaries and from regulatory and law enforcement officials of other foreign or
54 domestic jurisdictions, and shall maintain as confidential or privileged any documents, materials,
55 or other information received with notice or the understanding that it is confidential or privileged
56 under the laws of the jurisdiction that is the source of the document, material, or other
57 information; and

58 (4) Shall enter into a written agreement with the National Association of Insurance
59 Commissioners and any third-party consultant designated by the director governing sharing

60 and use of information provided under sections 382.010 to 382.300 consistent with this
61 subsection that shall:

62 (a) Specify procedures and protocols regarding the confidentiality and security of
63 information shared with the National Association of Insurance Commissioners [~~and its affiliates~~
64 ~~and subsidiaries~~] **or a third-party consultant designated by the director** under sections
65 382.010 to 382.300 including procedures and protocols for sharing by the National Association
66 of Insurance Commissioners with other state, federal, and international regulators. **The**
67 **agreement shall provide that the recipient agrees, in writing, to maintain the confidentiality**
68 **and privileged status of the documents, materials, or other information and has verified,**
69 **also in writing, the legal authority to maintain such confidentiality;**

70 (b) Specify that ownership of information shared with the National Association of
71 Insurance Commissioners [~~and its affiliates and subsidiaries~~] **or a third-party consultant as**
72 **designated by the director** under sections 382.010 to 382.300 remains with the director and that
73 the National Association of Insurance Commissioners' **or third-party consultant's, as**
74 **designated by the director,** use of such information is subject to the direction of the director;

75 (c) **Excluding documents, material, or information reported pursuant to section**
76 **382.177, prohibit the NAIC or a third-party consultant designated by the director from**
77 **storing the information shared under sections 382.010 to 382.300 in a permanent database**
78 **after the underlying analysis is completed;**

79 (d) Require prompt notice to be given to an insurer whose confidential information in
80 the possession of the National Association of Insurance Commissioners **or a third-party**
81 **consultant designated by the director,** under sections 382.010 to 382.300 is subject to a request
82 or subpoena to the National Association of Insurance Commissioners **or a third-party**
83 **consultant designated by the director,** for disclosure or production; ~~and~~

84 [~~(d)~~] (e) Require the National Association of Insurance Commissioners [~~and its affiliates~~
85 ~~and subsidiaries~~] **or third-party consultant as designated by the director** to consent to
86 intervention by an insurer in any judicial or administrative action in which the National
87 Association of Insurance Commissioners [~~and its affiliates and subsidiaries~~] **or third-party**
88 **consultant as designated by the director** may be required to disclose confidential information
89 about the insurer shared with the National Association of Insurance Commissioners **or a third-**
90 **party consultant designated by the director,** and its affiliates and subsidiaries under sections
91 382.010 to 382.300; **and**

92 (f) **For documents, material, or information reporting under section 382.177, in the**
93 **case of an agreement involving a third-party consultant designated by the director, provide**
94 **for notification of the identity of the consultant to the applicable insurers.**

95 4. The sharing of information by the director under sections 382.010 to 382.300 shall not
96 constitute a delegation of regulatory or rulemaking authority, and the director is solely
97 responsible for the administration, execution, and enforcement of the provisions of sections
98 382.010 to 382.300.

99 5. No waiver of any applicable privilege or claim of confidentiality in the documents,
100 materials, or other information shall occur as a result of disclosure of such documents, materials,
101 or other information to the director under this section or as a result of sharing as authorized in
102 sections 382.010 to 382.300.

103 6. Documents, materials, or other information in the possession or control of the
104 National Association of Insurance Commissioners **or a third-party consultant designated by**
105 **the director** under sections 382.010 to 382.300 shall be confidential by law and privileged, shall
106 not be subject to disclosure under chapter 610, shall not be subject to subpoena, and shall not be
107 subject to discovery or admissible in evidence in any private civil action.

108 7. **The group capital calculation and resulting group capital ratio required under**
109 **section 382.176 and the liquidity stress test along with its results and supporting disclosures**
110 **required under section 382.177 are regulatory tools for assessing group risks and capital**
111 **adequacy and group liquidity risks, respectively, and are not intended as a means to rank**
112 **insurers or insurance holding company systems generally. Therefore, except as otherwise**
113 **may be required under sections 382.010 to 382.300, the making, publishing, disseminating,**
114 **circulating, or placing before the public, or causing directly or indirectly to be made,**
115 **published, disseminated, circulated, or placed before the public in a newspaper, magazine,**
116 **or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over**
117 **any radio or television station or any electronic means of communication available to the**
118 **public, or in any other way as an advertisement, announcement, or statement containing**
119 **a representation or statement with regard to the group capital calculation, group capital**
120 **ratio, the liquidity stress test results, or supporting disclosures for the liquidity stress test**
121 **of any insurer or any insurer group, or of any component derived in the calculation by any**
122 **insurer, broker, or other person engaged in any manner in the insurance business, would**
123 **be misleading and is therefore prohibited; provided, however, that if any materially false**
124 **statement with respect to the group capital calculation, resulting group capital ratio, an**
125 **inappropriate comparison of any amount to an insurer's or insurance group's group**
126 **capital calculation or resulting group capital ratio, liquidity stress test result, supporting**
127 **disclosures for the liquidity stress test, or an inappropriate comparison of any amount to**
128 **an insurer's or insurance group's liquidity stress test result or supporting disclosures is**
129 **published in any written publication and the insurer is able to demonstrate to the director**
130 **with substantial proof the falsity of such statement or the inappropriateness, as the case**

131 **may be, then the insurer may publish announcements in a written publication if the sole**
 132 **purpose of the announcement is to rebut the materially false statement.**

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.

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

385.220. 1. The provisions of sections 385.200 to 385.220 shall not apply to:

2 (1) Warranties;

3 (2) Maintenance agreements;

4 (3) Commercial transactions; ~~[and]~~

5 (4) Service contracts sold or offered for sale to persons other than consumers; **or**

6 **(5) Motor club contracts, as defined in section 385.450.**

7 2. Manufacturer's contracts on the manufacturer's products need only comply with the
 8 provisions of sections 385.206, 385.208, and 385.216.

385.320. 1. Sections 385.300 to 385.320 shall not apply to:

- 2 (1) Warranties;
 - 3 (2) Maintenance agreements;
 - 4 (3) Warranties, service contracts, or maintenance agreements offered by public utilities
 - 5 on their transmission devices to the extent they are regulated under the laws of this state;
 - 6 (4) Service contracts sold or offered for sale to persons other than consumers;
 - 7 (5) Service contracts sold or offered to nonresidents of this state regardless of whether
 - 8 the entity selling or offering such contracts is located or doing business in this state;
 - 9 (6) Motor vehicle extended service contracts, as defined in section 385.200; [~~and~~]
 - 10 (7) **Motor club contracts, as defined in section 385.450; or**
 - 11 (8) Agreements or warranties which provide for the service, repair, replacement, or
 - 12 maintenance of the systems, appliances, and structural components of residential or commercial
 - 13 real property.
- 14 2. Manufacturer's service contracts on the manufacturer's products need only comply
- 15 with the provisions of sections 385.306, 385.308, and 385.316.

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

- 2 (1) **"Motor club", a legal entity that, in consideration of dues, assessments, or**
 - 3 **periodic payments of moneys, promises to provide motor club services to its members or**
 - 4 **subscribers;**
 - 5 (2) **"Motor club contract", an agreement whereby a motor club promises to render,**
 - 6 **furnish, or procure motor club services to or for its members or subscribers;**
 - 7 (3) **"Motor club services", services that assist a member or subscriber of a motor**
 - 8 **club in matters relating to motor travel or the operation, use, or maintenance of a motor**
 - 9 **vehicle by supplying services that may include, but are not limited to, towing service,**
 - 10 **emergency road service, bail and guaranteed arrest bond certificate service, discount**
 - 11 **service, theft service, map service, touring service, legal fee reimbursement service in the**
 - 12 **defense of traffic offenses, and participation in an accident and sickness or accidental death**
 - 13 **insurance benefit program issued by an insurance company authorized to do business in**
 - 14 **this state.**
- 15 2. Fees collected from the sale of motor club contracts shall not be subject to
- 16 taxation of premiums under chapter 148.
- 17 3. Motor clubs complying with the provisions of this section shall not be required
- 18 to comply with the provisions of chapter 374 or 375, or any other provisions governing
- 19 insurance companies, except as specifically provided.

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