

STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018

Introduced by Senator O'Brien

ENROLLED SENATE BILL No. 638

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending sections 1103 and 1105 (MCL 500.1103 and 500.1105), as amended by 2000 PA 283, and by adding section 1106.

The People of the State of Michigan enact:

Sec. 1103. (1) A ceding insurer is allowed credit for reinsurance as either an asset or a reduction from liability on account of reinsurance ceded only if the reinsurance is ceded to an assuming insurer that is authorized to transact insurance or reinsurance in this state or that meets the requirements of subsection (2), (3), (4), (5), or (6). In addition, credit for reinsurance is allowed under this section only to the extent that it is consistent with any rules promulgated by the director under section 1106 regarding the valuation of reserve credits or assets, the amount and forms of security

supporting reinsurance agreements, or the circumstances under which credit will be reduced or eliminated. For an assuming insurer that is licensed to transact insurance or reinsurance in this state or that meets the requirements of subsection (2), credit is allowed only for cessions of those kinds or classes of business that the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile or, for a United States branch of an alien insurer, in the state through which it is entered and is licensed to transact insurance or reinsurance.

(2) A ceding insurer is allowed credit for reinsurance ceded as either an asset or a reduction from liability on account of reinsurance ceded if the reinsurance is ceded to an assuming insurer that is accredited as a reinsurer in this state. An accredited reinsurer under this subsection is a reinsurer that meets all of the following requirements:

(a) Files with the director evidence of the reinsurer's submission to this state's jurisdiction.

(b) Submits to this state's authority to examine its books and records and bears the expense of the examination.

(c) Is licensed to transact insurance or reinsurance in at least 1 state or for a United States branch of an alien assuming insurer is entered through and licensed to transact insurance or reinsurance in at least 1 state.

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

(e) Demonstrates to the satisfaction of the director that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. An assuming insurer meets the requirement of this subdivision as of the time of its application if it maintains a surplus as regards policyholders in an amount not less than \$20,000,000.00 and its accreditation has not been denied by the director within 90 days after submission of its application.

(3) A ceding insurer is allowed credit for reinsurance as either an asset or a reduction from liability on account of reinsurance ceded if the reinsurance is ceded to an assuming insurer that is domiciled in, or for a United States branch of an alien assuming insurer is entered through, a state that employs standards regarding credit for reinsurance substantially similar to those applicable under this chapter and the assuming insurer or United States branch of an alien assuming insurer meets both of the following requirements:

(a) Except for reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system, maintains a surplus as regards policyholders in an amount not less than \$20,000,000.00.

(b) Submits to this state's authority to examine its books and records and bears the expense of the examination.

(4) Subject to subsection (7), a ceding insurer is allowed credit for reinsurance ceded as either an asset or a reduction from liability on account of reinsurance ceded if the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution for the payment of the valid claims of its United States ceding insurers, their assigns, and successors in interest, the trust agreement complies with subsection (9), and the assuming insurer submits to the director's authority to examine its books and records and bears the expense of the examination. The assuming insurer shall report annually to the director information substantially the same as an authorized insurer is required to report under section 438 to enable the director to determine the sufficiency of the trust fund. The trust fund must meet all of the following requirements:

(a) For a single assuming insurer, all of the following apply:

(i) The trust must consist of a trustee account representing the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers and, in addition, the assuming insurer shall maintain a trustee surplus of an amount sufficient in the opinion of the director to maintain compliance with section 403 as respects reinsurance ceded by United States ceding insurers but not less than \$20,000,000.00.

(ii) Except as otherwise provided in this subparagraph and subparagraph (iii), after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least 3 full years, the commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trustee surplus. The commissioner with principal regulatory oversight of the trust shall not authorize a reduction in the required trustee surplus unless the commissioner with principal regulatory oversight of the trust determines, based on an assessment of the risk, that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and must consider all material risk factors, including, when applicable, the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency.

(iii) The minimum required trustee surplus shall not be reduced to an amount less than 30% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust.

(b) For a group including incorporated and individual unincorporated underwriters, all of the following apply:

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

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

(iii) In addition to subparagraphs (i) and (ii), the group shall maintain a trusteed surplus of which an amount sufficient in the opinion of the director to maintain compliance with section 403 as respects reinsurance ceded by United States domiciled ceding insurers but not less than \$100,000,000.00 shall be held jointly for the benefit of United States domiciled ceding insurers of any member of the group for all years of account. The incorporated members of the group shall not engage in any business other than underwriting as a member of the group and are subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members. Within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall provide the director with an annual certification of the solvency of each underwriter member by the group's domiciliary regulator or if certification is unavailable, financial statements prepared by independent public accountants for each underwriter group member.

(c) For a group of incorporated underwriters under common administration, all of the following apply:

(i) The group must have continuously transacted an insurance business outside the United States for at least 3 years immediately before applying for accreditation.

(ii) The group must maintain an aggregate policyholders' surplus of not less than \$10,000,000,000.00.

(iii) The group must maintain a trust fund in an amount not less than the group's several liabilities attributable to business ceded by United States domiciled ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of the group.

(iv) In addition to subparagraph (iii), the group must maintain a joint trusteed surplus of which \$100,000,000.00 is held jointly for the benefit of United States domiciled ceding insurers of any member of the group as additional security for those liabilities.

(v) Within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the director an annual certification of each underwriter member's solvency by the member's domiciliary regulator and financial statements of each underwriter member of the group prepared by its independent public accountant.

(d) The trust and any amendments to the trust must be established in a form approved by the commissioner of the state where the trust is domiciled or the commissioner of another state who under the trust instrument terms has accepted principal regulatory oversight of the trust. The trust instrument must provide that contested claims are valid and enforceable on the final order of a court of competent jurisdiction in the United States. The trust must vest legal title to its assets in the trustees of the trust for its United States ceding insurers and their assigns and successors in interest. The trust and the assuming insurer are subject to examination as determined by the director, and the assuming insurer shall bear the expense of the examination. The trust must remain in effect while the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust.

(e) No later than February 28 of each year, the trustees of the trust shall report to the director in writing the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust, if a termination is planned, or certify that the trust does not expire before the following December 31.

(5) A ceding insurer is allowed credit for reinsurance ceded as either an asset or a reduction from liability on account of reinsurance ceded if reinsurance is ceded to an assuming insurer that does not meet the requirements of this section but only for the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.

(6) A ceding insurer is allowed credit for reinsurance ceded as either an asset or a reduction from liability on account of reinsurance if the reinsurance is ceded to an assuming insurer that has been certified by the director as a certified reinsurer in this state and secures its obligations as required under this subsection. Certification requirements include all of the following:

(a) The director shall not certify an assuming insurer as a certified reinsurer unless the assuming insurer meets all of the following requirements:

(i) The assuming insurer is domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the director under subdivision (c).

(ii) The assuming insurer maintains minimum capital and surplus, or its equivalent, in an amount determined by the director pursuant to rule.

(iii) The assuming insurer maintains financial strength ratings from 2 or more rating agencies considered acceptable by the director pursuant to rule.

(iv) The assuming insurer agrees to submit to the jurisdiction of this state.

(v) The assuming insurer agrees to appoint the director as its agent for service of process in this state.

(vi) The assuming insurer agrees to provide security for 100% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if it resists enforcement of a final United States judgment.

(vii) The assuming insurer agrees to meet applicable information filing requirements as determined by the director, both with respect to an initial application for certification and on an ongoing basis.

(viii) The assuming insurer satisfies any other requirements for certification that the director considers relevant.

(b) The director may certify an association including incorporated and individual unincorporated underwriters as a certified reinsurer if the association meets all of the following requirements:

(i) The association meets the requirements of subdivision (a).

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

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

(iv) Within 90 days after its financial statements are due to be filed with the association's domiciliary regulator, the association provides to the director an annual certification by the association's domiciliary regulator of the solvency of each underwriter member; or if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the association.

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

(i) To determine if the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the director shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits, and extent of reciprocal recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled in the United States. A qualified jurisdiction shall agree to share information and cooperate with the director with respect to all certified reinsurers domiciled within that jurisdiction. The director shall not recognize a jurisdiction as a qualified jurisdiction if the director determines that the jurisdiction does not adequately and promptly enforce final United States judgments and arbitration awards. The director may consider additional factors to determine if the domiciliary is eligible to be recognized as a qualified jurisdiction.

(ii) In determining whether a jurisdiction is a qualified jurisdiction, the director shall consider a list of qualified jurisdictions published by the NAIC committee process. If the director approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the director shall provide thoroughly documented justification to the NAIC in accordance with criteria required pursuant to rules.

(iii) The director shall recognize a United States jurisdiction that meets the requirement for accreditation under the NAIC financial standards and accreditation program as a qualified jurisdiction.

(iv) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the director may suspend the reinsurer's certification indefinitely, instead of revoking it.

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

(e) A certified reinsurer shall secure obligations assumed from United States ceding insurers under this subsection at a level consistent with its rating, as specified in rules promulgated by the director. All of the following apply to a certified reinsurer securing its obligations:

(i) Except as otherwise provided in this subsection, a domestic ceding insurer does not qualify for full financial statement credit for reinsurance ceded to a certified reinsurer unless the certified reinsurer maintains security in a form acceptable to the director and consistent with section 1105, or in a multibeneficiary trust in accordance with subsection (4).

(ii) If a certified reinsurer maintains a trust to fully secure its obligations described in subsection (4), and chooses to secure its obligations incurred as a certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer shall maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security provided under this subsection or comparable laws of other United States jurisdictions and for its obligations described under subsection (4). The director shall not certify a reinsurer under this subsection unless the reinsurer binds itself, by the language of the trust and agreement with the commissioner with principal regulatory oversight of each trust account, to fund, on termination of a trust account, out of the remaining surplus of the trust any deficiency of any other trust account.

(iii) The minimum trusteed surplus requirements provided in subsection (4) are not applicable with respect to a multibeneficiary trust maintained by a certified reinsurer for the purpose of securing obligations incurred under this subsection, except that the trust must maintain a minimum trusteed surplus of \$10,000,000.00.

(iv) With respect to obligations incurred by a certified reinsurer under this subsection, if the security is insufficient, the director shall reduce the allowable credit by an amount proportionate to the deficiency, and may impose further reductions in allowable credit on finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due.

(v) For purposes of this subsection, a certified reinsurer whose certification has been terminated for any reason is considered a certified reinsurer required to secure 100% of its obligations. If the director continues to assign a higher rating under this section, the requirement under this subparagraph does not apply to a certified reinsurer in inactive status or to a reinsurer whose certification has been suspended. As used in this subparagraph, "terminated" means revoked, suspended, voluntarily surrendered, or placed in inactive status.

(f) If an applicant for certification has been certified as a reinsurer in an NAIC-accredited jurisdiction, the director may defer to that jurisdiction's certification, and may defer to the rating assigned by that jurisdiction, and the applicant is considered a certified reinsurer in this state.

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

(7) If the assuming insurer is not licensed, accredited, or certified to transact insurance or reinsurance in this state, the credit under subsection (4) is not allowed unless the assuming insurer agrees in the reinsurance agreements to both of the following:

(a) That if the assuming insurer fails to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, will submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give the court jurisdiction, and will abide by the final decision of the court or any appellate court if there is an appeal.

(b) To designate the director or a designated attorney as its true and lawful attorney on whom may be served any lawful process in an action, suit, or proceeding instituted by or on behalf of the ceding insurer.

(8) Subsection (7) is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if the obligation is created in the agreement.

(9) The credit under subsection (4) or (6) is not allowed unless the assuming insurer agrees in the trust agreement to all of the following:

(a) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by subsection (4) or (6), or if the trust grantor has been declared or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee will comply with an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight all of the assets of the trust fund.

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

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

(d) The trust grantor waives any right otherwise available under United States laws inconsistent with subdivisions (a) to (c).

(10) If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification, the director may suspend or revoke the reinsurer's accreditation or certification. The director shall give the reinsurer notice and opportunity for hearing. The suspension or revocation shall not take effect until after the director's order on hearing, unless 1 of the following occurs:

(a) The reinsurer waives its right to hearing.

(b) The director's order is based on regulatory action by the reinsurer's domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state of the reinsurer under subsection (6)(f).

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

(11) While a reinsurer's accreditation or certification is suspended, a reinsurance contract issued or renewed after the effective date of the suspension does not qualify for credit except to the extent that the reinsurer's obligations under the contract are secured under section 1105. If a reinsurer's accreditation or certification is revoked, credit for reinsurance may not be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the contract are secured under subsection (6)(e) or section 1105.

(12) A ceding insurer shall take steps to manage its reinsurance recoverable assets proportionate to its own book of business. A domestic ceding insurer shall notify the director within 30 days after reinsurance recoverable assets from any single assuming insurer, or group of affiliated assuming insurers, exceeds 50% of the domestic ceding insurer's last reported surplus to policyholders, or after it has determined that reinsurance recoverable assets from any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification must demonstrate that the exposure is safely managed by the domestic ceding insurer.

(13) A ceding insurer shall take steps to diversify its reinsurance program. A domestic ceding insurer shall notify the director within 30 days after ceding to any single assuming insurer, or group of affiliated assuming insurers, more than 20% of the ceding insurer's gross written premium in the prior calendar year, or after it has determined that the reinsurance ceded to any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification must demonstrate that the exposure is safely managed by the domestic ceding insurer.

(14) A ceding insurer that is a member of the catastrophic claims association created under section 3104 is exempt from subsections (12) and (13) for purposes of cessions to the catastrophic claims association.

(15) As used in this section, "NAIC" means the National Association of Insurance Commissioners.

Sec. 1105. An asset or a reduction from liability for the reinsurance ceded by a ceding insurer to an assuming insurer that does not meet the requirements of section 1103 is allowed in an amount not to exceed the liabilities carried by the ceding insurer. In addition, any asset or reduction from liability for reinsurance ceded is allowed under this section only to the extent that it is consistent with any rules promulgated by the director under section 1106 regarding the valuation of reserve credits or assets, the amount and forms of security supporting reinsurance agreements, or the circumstances under which credit will be reduced or eliminated. The reduction must be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations under the reinsurance contract, if the security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer and, for a trust, held in a qualified United States financial institution. This security may be in the form of any of the following:

(a) Cash.

(b) Securities that may be valued by the director under sections 841 and 842 and are approved for investment by insurers under chapter 9, including those considered exempt from filing as defined by the purposes and procedures manual of the Securities Valuation Office of the National Association of Insurance Commissioners.

(c) Clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified United States financial institution no later than December 31 of the year for which filing is being made, and in the possession of the ceding insurer on or before the filing date of its annual statement. Letters of credit that meet applicable standards of issuer acceptability on the date the letters of credit are issued or confirmed are, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever occurs first.

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

Sec. 1106. (1) Subject to subsections (2) and (3), the director may promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, with regard to reinsurance agreements concerning any of the following:

(a) Life insurance policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits, if the reinsurance treaty meets either of the following criteria:

(i) Contains policies issued after December 31, 2014.

(ii) Contains policies issued before January 1, 2015, if the risk pertaining to the policies is ceded, in whole or in part, in connection with the treaty, after December 31, 2014.

(b) Universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period, if the reinsurance treaty meets either of the following criteria:

(i) Contains policies issued after December 31, 2014.

(ii) Contains policies issued before January 1, 2015, if the risk pertaining to the policies is ceded, in whole or in part, in connection with the treaty, after December 31, 2014.

(c) Variable annuities with guaranteed death or living benefits.

(d) Long-term care insurance policies.

(e) Other life and health insurance and annuity products as the director considers necessary for the administration of sections 1103 and 1105.

(2) A rule promulgated under subsection (1) may require a ceding insurer to use the valuation manual adopted by the NAIC under section 11b(1) of the NAIC standard valuation law when calculating amounts or forms of security required to be held under law.

(3) A rule promulgated pursuant to subsection (1) does not apply to cessions to an assuming insurer that meets either of the following criteria:

(a) The assuming insurer is certified as a reinsurer in this state.

(b) The assuming insurer maintains at least \$250,000,000.00 in capital and surplus when determined in accordance with the NAIC accounting practices and procedures manual and meets either of the following criteria:

(i) The assuming insurer is licensed to transact insurance or reinsurance in at least 26 states.

(ii) The assuming insurer is licensed to transact insurance or reinsurance in at least 10 states, and is licensed to transact insurance or reinsurance or accredited as a reinsurer in a total of at least 35 states.

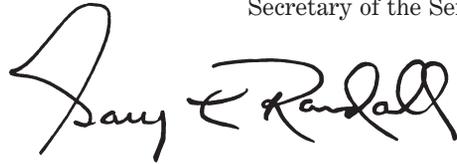
(4) As used in this section, "NAIC" means the National Association of Insurance Commissioners.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor