

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1015**

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 1103, 1106, 5228, 5230, and 5245 (MCL
500.1103, 500.1106, 500.5228, 500.5230, and 500.5245), section 1103
as amended and section 1106 as added by 2018 PA 91, section 5228 as
amended by 1994 PA 226, and section 5245 as amended by 2006 PA 290.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1103. (1) A ceding insurer is allowed credit for
2 reinsurance as either an asset or a reduction from liability on
3 account of reinsurance ceded only if the reinsurance is ceded to an
4 assuming insurer that is authorized to transact insurance or
5 reinsurance in this state or that meets the requirements of
6 subsection (2), (3), (4), (5), ~~or~~ (6), **or (7)**. In addition, credit



1 for reinsurance is allowed under this section only to the extent
2 that it is consistent with any rules promulgated by the director
3 under section 1106 regarding the valuation of reserve credits or
4 assets, the amount and forms of security supporting reinsurance
5 agreements, or the circumstances under which credit will be reduced
6 or eliminated. For an assuming insurer that is licensed to transact
7 insurance or reinsurance in this state or that meets the
8 requirements of subsection (2), credit is allowed only for cessions
9 of those kinds or classes of business that the assuming insurer is
10 licensed or otherwise permitted to write or assume in its state of
11 domicile or, for a United States branch of an alien insurer, in the
12 state through which it is entered and is licensed to transact
13 insurance or reinsurance.

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

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

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

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

28 (d) Files annually with the director a copy of its annual
29 statement filed with the insurance department of its state of



1 domicile and a copy of its most recent audited financial statement.

2 (e) Demonstrates to the satisfaction of the director that it
3 has adequate financial capacity to meet its reinsurance obligations
4 and is otherwise qualified to assume reinsurance from domestic
5 insurers. An assuming insurer meets the requirement of this
6 subdivision as of the time of its application if it maintains a
7 surplus as regards policyholders in an amount not less than
8 \$20,000,000.00 and its accreditation has not been denied by the
9 director within 90 days after submission of its application.

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

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

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

25 (4) Subject to subsection ~~(7)~~, **(19)**, a ceding insurer is
26 allowed credit for reinsurance ceded as either an asset or a
27 reduction from liability on account of reinsurance ceded if the
28 reinsurance is ceded to an assuming insurer that maintains a trust
29 fund in a qualified United States financial institution for the



1 payment of the valid claims of its United States ceding insurers,
2 their assigns, and successors in interest, the trust agreement
3 complies with subsection ~~(9)~~, **(21)**, and the assuming insurer
4 submits to the director's authority to examine its books and
5 records and bears the expense of the examination. The assuming
6 insurer shall report annually to the director information
7 substantially the same as an authorized insurer is required to
8 report under section 438 to enable the director to determine the
9 sufficiency of the trust fund. The trust fund must meet all of the
10 following requirements:

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

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

19 (ii) Except as otherwise provided in this subparagraph and
20 subparagraph (iii), after the assuming insurer has permanently
21 discontinued underwriting new business secured by the trust for at
22 least 3 full years, the commissioner with principal regulatory
23 oversight of the trust may authorize a reduction in the required
24 trusteed surplus. The commissioner with principal regulatory
25 oversight of the trust shall not authorize a reduction in the
26 required trusteed surplus unless the commissioner with principal
27 regulatory oversight of the trust determines, based on an
28 assessment of the risk, that the new required surplus level is
29 adequate for the protection of United States ceding insurers,



1 policyholders, and claimants in light of reasonably foreseeable
2 adverse loss development. The risk assessment may involve an
3 actuarial review, including an independent analysis of reserves and
4 cash flows, and must consider all material risk factors, including,
5 when applicable, the lines of business involved, the stability of
6 the incurred loss estimates, and the effect of the surplus
7 requirements on the assuming insurer's liquidity or solvency.

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

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

14 (i) For reinsurance ceded under reinsurance agreements with an
15 inception date, amendment, or renewal date on or after January 1,
16 1993, the trust must consist of a trustee account in an amount not
17 less than the respective underwriters' several liabilities
18 attributable to business ceded by United States domiciled ceding
19 insurers to any underwriter of the group.

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

26 (iii) In addition to subparagraphs (i) and (ii), the group shall
27 maintain a trustee surplus of which an amount sufficient in the
28 opinion of the director to maintain compliance with section 403 as
29 respects reinsurance ceded by United States domiciled ceding



1 insurers but not less than \$100,000,000.00 ~~shall~~**must** be held
2 jointly for the benefit of United States domiciled ceding insurers
3 of any member of the group for all years of account. The
4 incorporated members of the group shall not engage in any business
5 other than underwriting as a member of the group and are subject to
6 the same level of regulation and solvency control by the group's
7 domiciliary regulator as are the unincorporated members. Within 90
8 days after its financial statements are due to be filed with the
9 group's domiciliary regulator, the group shall provide the director
10 with an annual certification of the solvency of each underwriter
11 member by the group's domiciliary regulator or if certification is
12 unavailable, financial statements prepared by independent public
13 accountants for each underwriter group member.

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

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

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

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

26 (iv) In addition to subparagraph (iii), the group must maintain a
27 joint trusteed surplus of which \$100,000,000.00 is held jointly for
28 the benefit of United States domiciled ceding insurers of any
29 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



1 reinsurance ceded if reinsurance is ceded to an assuming insurer
2 that does not meet the requirements of this section but only for
3 the insurance of risks located in jurisdictions where the
4 reinsurance is required by applicable law or regulation of that
5 jurisdiction.

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

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

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

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

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

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

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

29 (vi) The assuming insurer agrees to provide security for 100%



1 of the assuming insurer's liabilities attributable to reinsurance
2 ceded by United States ceding insurers if it resists enforcement of
3 a final United States judgment.

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

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

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

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

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

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

26 (iv) Within 90 days after its financial statements are due to
27 be filed with the association's domiciliary regulator, the
28 association provides to the director an annual certification by the
29 association's domiciliary regulator of the solvency of each



1 underwriter member; or if a certification is unavailable, financial
2 statements, prepared by independent public accountants, of each
3 underwriter member of the association.

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

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

25 (ii) In determining whether a jurisdiction is a qualified
26 jurisdiction, the director shall consider a list of qualified
27 jurisdictions published by the NAIC committee process. If the
28 director approves a jurisdiction as qualified that does not appear
29 on the list of qualified jurisdictions, the director shall provide



1 thoroughly documented justification to the NAIC in accordance with
2 criteria required pursuant to rules.

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

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

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

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

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

26 (ii) If a certified reinsurer maintains a trust to fully secure
27 its obligations described in subsection (4), and chooses to secure
28 its obligations incurred as a certified reinsurer in the form of a
29 multibeneficiary trust, the certified reinsurer shall maintain



1 separate trust accounts for its obligations incurred under
2 reinsurance agreements issued or renewed as a certified reinsurer
3 with reduced security provided under this subsection or comparable
4 laws of other United States jurisdictions and for its obligations
5 described under subsection (4). The director shall not certify a
6 reinsurer under this subsection unless the reinsurer binds itself,
7 by the language of the trust and agreement with the commissioner
8 with principal regulatory oversight of each trust account, to fund,
9 on termination of a trust account, out of the remaining surplus of
10 the trust any deficiency of any other trust account.

11 (iii) The minimum trustee surplus requirements provided in
12 subsection (4) are not applicable with respect to a
13 multibeneficiary trust maintained by a certified reinsurer for the
14 purpose of securing obligations incurred under this subsection,
15 except that the trust must maintain a minimum trustee surplus of
16 \$10,000,000.00.

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

24 (v) For purposes of this subsection, a certified reinsurer
25 whose certification has been terminated for any reason is
26 considered a certified reinsurer required to secure 100% of its
27 obligations. If the director continues to assign a higher rating
28 under this section, the requirement under this subparagraph does
29 not apply to a certified reinsurer in inactive status or to a



1 reinsurer whose certification has been suspended. As used in this
2 subparagraph, "terminated" means revoked, suspended, voluntarily
3 surrendered, or placed in inactive status.

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

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

17 (7) A ceding insurer is allowed credit when the reinsurance is
18 ceded to an assuming insurer that meets all of the following
19 conditions:

20 (a) The assuming insurer must have its head office or be
21 domiciled in, as applicable, and be licensed in a reciprocal
22 jurisdiction.

23 (b) The assuming insurer must have and maintain, on an ongoing
24 basis, minimum capital and surplus, or its equivalent, calculated
25 according to the methodology of its domiciliary jurisdiction, in an
26 amount to be set forth in rule. If the assuming insurer is an
27 association, including incorporated and individual unincorporated
28 underwriters, it must have and maintain, on an ongoing basis,
29 minimum capital and surplus equivalents, net of liabilities,



1 calculated according to the methodology applicable in its
2 domiciliary jurisdiction, and a central fund containing a balance
3 in amounts to be set forth in rule.

4 (c) The assuming insurer must have and maintain, on an ongoing
5 basis, a minimum solvency or capital ratio, as applicable, that
6 will be set forth in rule. If the assuming insurer is an
7 association, including incorporated and individual unincorporated
8 underwriters, it must have and maintain, on an ongoing basis, a
9 minimum solvency or capital ratio in the reciprocal jurisdiction
10 where the assuming insurer has its head office or is domiciled, as
11 applicable, and is also licensed.

12 (d) The assuming insurer must agree and provide adequate
13 assurance to the director, in a form specified by the director
14 pursuant to rule, as follows:

15 (i) The assuming insurer must provide prompt written notice and
16 explanation to the director if it falls below the minimum
17 requirements under subdivision (b) or (c), or if any regulatory
18 action is taken against it for serious noncompliance with
19 applicable law.

20 (ii) The assuming insurer must consent in writing to the
21 jurisdiction of the courts of this state and to the appointment of
22 the director as agent for service of process. The director may
23 require that consent for service of process be provided to the
24 director and included in each reinsurance agreement. This
25 subparagraph does not limit or alter the capacity of parties to a
26 reinsurance agreement to agree to alternative dispute resolution
27 mechanisms, except to the extent the agreements are unenforceable
28 under applicable insolvency or delinquency laws.

29 (iii) The assuming insurer must consent in writing to pay all

1 final judgments, wherever enforcement is sought, obtained by a
2 ceding insurer or its legal successor, that have been declared
3 enforceable in the jurisdiction where the judgment was obtained.

4 (iv) Each reinsurance agreement must include a provision
5 requiring the assuming insurer to provide security in an amount
6 equal to 100% of the assuming insurer's liabilities attributable to
7 reinsurance ceded pursuant to the agreement if the assuming insurer
8 resists enforcement of a final judgment that is enforceable under
9 the law of the jurisdiction in which it was obtained or a properly
10 enforceable arbitration award, whether obtained by the ceding
11 insurer or by its legal successor on behalf of its resolution
12 estate.

13 (v) The assuming insurer must confirm that it is not presently
14 participating in any solvent scheme of arrangement that involves
15 this state's ceding insurers, and agree to notify the ceding
16 insurer and the director and to provide security in an amount equal
17 to 100% of the assuming insurer's liabilities to the ceding
18 insurer, if the assuming insurer enters into a solvent scheme of
19 arrangement described in this subparagraph. The security must be in
20 a form consistent with subsection (6) and section 1105 and as
21 specified by the director in rule.

22 (e) The assuming insurer or its legal successor must provide,
23 if requested by the director, on behalf of itself and any legal
24 predecessors, certain documentation to the director, as specified
25 by the director in rule.

26 (f) The assuming insurer must maintain a practice of prompt
27 payment of claims under reinsurance agreements, pursuant to
28 criteria set forth in rule.

29 (g) The assuming insurer's supervisory authority must confirm



1 to the director on an annual basis, as of the preceding December 31
2 or at the annual date otherwise statutorily reported to the
3 reciprocal jurisdiction, that the assuming insurer complies with
4 the requirements under subdivisions (b) and (c).

5 (h) This subsection does not preclude an assuming insurer from
6 providing the director with information on a voluntary basis.

7 (8) The director shall timely create and publish a list of
8 reciprocal jurisdictions that is published through the NAIC
9 committee process. Both of the following apply to the director's
10 list published under this subsection:

11 (a) The director's list must include a reciprocal jurisdiction
12 that meets the conditions under subsection (27) (b) (i) and (ii) and
13 must consider any other reciprocal jurisdiction included on the
14 NAIC list. The director may approve a jurisdiction that does not
15 appear on the NAIC list of reciprocal jurisdictions in accordance
16 with criteria to be developed under rules promulgated by the
17 director.

18 (b) The director may remove a jurisdiction from the list of
19 reciprocal jurisdictions on a determination that the jurisdiction
20 no longer meets the requirements of a reciprocal jurisdiction, in
21 accordance with a process set forth in rules promulgated by the
22 director, except that the director shall not remove from the list a
23 reciprocal jurisdiction that meets the conditions under subsection
24 (27) (b) (i) and (ii). On removal of a reciprocal jurisdiction from
25 this list, a ceding insurer is allowed credit for reinsurance ceded
26 to an assuming insurer that has its home office or is domiciled in
27 that jurisdiction if otherwise allowed under this section, section
28 1105, or section 1106.

29 (9) The director shall timely create and publish a list of



1 assuming insurers that have satisfied the conditions set forth in
2 subsection (7) and to which cessions must be granted credit in
3 accordance with subsection (7). The director may add an assuming
4 insurer to the list if an NAIC accredited jurisdiction has added
5 the assuming insurer to a list of assuming insurers or if, on
6 initial eligibility, the assuming insurer submits the information
7 to the director as required under subsection (7)(d) and complies
8 with any additional requirements that the director may impose by
9 rule, except to the extent that they conflict with an applicable
10 covered agreement.

11 (10) If the director determines that an assuming insurer no
12 longer meets 1 or more of the requirements under subsection (7),
13 the director may revoke or suspend the eligibility of the assuming
14 insurer for recognition under subsection (7) in accordance with
15 procedures set forth in rule.

16 (11) While an assuming insurer's eligibility is suspended, no
17 reinsurance agreement issued, amended, or renewed after the
18 effective date of the suspension qualifies for credit except to the
19 extent that the assuming insurer's obligations under the contract
20 are secured in accordance with section 1105.

21 (12) If an assuming insurer's eligibility is revoked, no
22 credit for reinsurance may be granted after the effective date of
23 the revocation with respect to any reinsurance agreements entered
24 into by the assuming insurer, including reinsurance agreements
25 entered into before the date of revocation, except to the extent
26 that the assuming insurer's obligations under the contract are
27 secured in a form acceptable to the director and consistent with
28 section 1105.

29 (13) If subject to a legal process of rehabilitation,

1 liquidation, or conservation, as applicable, the ceding insurer, or
2 its representative, may seek and, if determined appropriate by the
3 court in which the proceedings are pending, may obtain an order
4 requiring that the assuming insurer post security for all
5 outstanding ceded liabilities.

6 (14) Subsection (7) does not limit or alter the capacity of
7 parties to a reinsurance agreement to agree on requirements for
8 security or other terms in that reinsurance agreement, except as
9 expressly prohibited under this section, section 1105, or section
10 1106 or other applicable law or rule.

11 (15) Credit may be taken under subsection (7) only for
12 reinsurance agreements entered into, amended, or renewed on or
13 after the effective date of the amendatory act that added this
14 subsection, and only with respect to losses incurred and reserves
15 reported on or after the later of the following:

16 (a) The date on which the assuming insurer has met all
17 eligibility requirements under subsection (7).

18 (b) The effective date of the new reinsurance agreement,
19 amendment, or renewal.

20 (16) Subsection (15) does not alter or impair a ceding
21 insurer's right to take credit for reinsurance, to the extent that
22 credit is not available under subsection (7), if the reinsurance
23 qualifies for credit under any other applicable provision under
24 this section, section 1105, or section 1106.

25 (17) Subsection (7) does not authorize an assuming insurer to
26 withdraw or reduce the security provided under any reinsurance
27 agreement except as permitted by the terms of the agreement.

28 (18) Subsection (7) does not limit or alter the capacity of
29 parties to any reinsurance agreement to renegotiate the agreement.



1 **(19)** ~~(7)~~—If the assuming insurer is not licensed, accredited,
 2 or certified to transact insurance or reinsurance in this state,
 3 the credit under subsection (4) is not allowed unless the assuming
 4 insurer agrees in the reinsurance agreements to both of the
 5 following:

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

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

18 **(20)** ~~(8)~~—Subsection ~~(7)~~—**(19)** is not intended to conflict with
 19 or override the obligation of the parties to a reinsurance
 20 agreement to arbitrate their disputes, if the obligation is created
 21 in the agreement.

22 **(21)** ~~(9)~~—The credit under subsection (4), ~~or~~ (6), **or** (7) is
 23 not allowed unless the assuming insurer agrees in the trust
 24 agreement to all of the following:

25 (a) Notwithstanding any other provisions in the trust
 26 instrument, if the trust fund is inadequate because it contains an
 27 amount less than the amount required by subsection (4) or (6), or
 28 if the trust grantor has been declared or placed into receivership,
 29 rehabilitation, liquidation, or similar proceedings under the laws



1 of its state or country of domicile, the trustee will comply with
 2 an order of the commissioner with regulatory oversight over the
 3 trust or with an order of a court of competent jurisdiction
 4 directing the trustee to transfer to the commissioner with
 5 regulatory oversight all of the assets of the trust fund.

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

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

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

20 **(22)** ~~(10)~~—If an accredited or certified reinsurer ceases to
 21 meet the requirements for accreditation or certification, the
 22 director may suspend or revoke the reinsurer's accreditation or
 23 certification. The director shall give the reinsurer notice and
 24 opportunity for hearing. The suspension or revocation ~~shall~~ **must**
 25 not take effect until after the director's order on hearing, unless
 26 1 of the following occurs:

27 (a) The reinsurer waives its right to hearing.

28 (b) The director's order is based on regulatory action by the
 29 reinsurer's domiciliary jurisdiction or the voluntary surrender or



1 termination of the reinsurer's eligibility to transact insurance or
2 reinsurance business in its domiciliary jurisdiction or in the
3 primary certifying state of the reinsurer under subsection (6)(f).

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

7 **(23)** ~~(11)~~ While a reinsurer's accreditation or certification
8 is suspended, a reinsurance contract issued or renewed after the
9 effective date of the suspension does not qualify for credit except
10 to the extent that the reinsurer's obligations under the contract
11 are secured under section 1105. If a reinsurer's accreditation or
12 certification is revoked, credit for reinsurance may not be granted
13 after the effective date of the revocation except to the extent
14 that the reinsurer's obligations under the contract are secured
15 under subsection (6)(e) or section 1105.

16 **(24)** ~~(12)~~ A ceding insurer shall take steps to manage its
17 reinsurance recoverable assets proportionate to its own book of
18 business. A domestic ceding insurer shall notify the director
19 within 30 days after reinsurance recoverable assets from any single
20 assuming insurer, or group of affiliated assuming insurers, exceeds
21 50% of the domestic ceding insurer's last reported surplus to
22 policyholders, or after it has determined that reinsurance
23 recoverable assets from any single assuming insurer, or group of
24 affiliated assuming insurers, is likely to exceed this limit. The
25 notification must demonstrate that the exposure is safely managed
26 by the domestic ceding insurer.

27 **(25)** ~~(13)~~ A ceding insurer shall take steps to diversify its
28 reinsurance program. A domestic ceding insurer shall notify the
29 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.

(26) ~~(14)~~—A ceding insurer that is a member of the catastrophic claims association created under section 3104 is exempt from subsections ~~(12)~~—(24) and ~~(13)~~—(25) for purposes of cessions to the catastrophic claims association.

(27) ~~(15)~~—As used in this section: —

(a) "NAIC" means the National Association of Insurance Commissioners.

(b) "Reciprocal jurisdiction" is a jurisdiction that meets 1 of the following conditions:

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

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



1 accreditation program.

2 (iii) A qualified jurisdiction, as determined by the director
3 under subsection (6)(c), that is not otherwise described in
4 subparagraph (i) or (ii) and that meets certain additional
5 requirements, consistent with the terms and conditions of in-force
6 covered agreements, as specified by the director in rule.

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

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

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

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

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

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

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

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

28 (d) Long-term care insurance policies.

29 (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~~ **any** of the following criteria:

(a) The assuming insurer meets the conditions under section 1103(7) .

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

(c) ~~(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.

Sec. 5228. (1) The stockholders or members of a corporation may adopt bylaws that they consider advisable. **Until September 30, 2022, bylaws adopted under this subsection may provide 1 or both of**



1 the following:

2 (a) One or more directors may participate in a regular or
3 special meeting of the board, or a committee of the board, or
4 conduct the meeting, by means of electronic communication devices
5 that enable all participants in the meeting to communicate with
6 each other. A director participating in a meeting allowed under
7 this subdivision is deemed to be present in person at a meeting.

8 (b) Any meeting of the stockholders or members may be
9 conducted by means of electronic communications devices by which
10 all stockholders or members participating may simultaneously
11 participate in the meeting. A stockholder or member participating
12 in a meeting allowed under this subdivision is deemed to be present
13 in person at a meeting.

14 (2) The directors of a domestic insurer may make bylaws, not
15 inconsistent with the constitution and laws of this state, or with
16 ~~their~~ **the insurer's** articles of incorporation, as they consider
17 necessary for the government of the officers and members of the
18 insurer, and the conduct of its affairs. All bylaws and any
19 amendments ~~thereto shall to~~ **the bylaws must** be filed with the
20 ~~commissioner~~ **director of the department** before becoming operative.

21 (3) If bylaws adopted under subsection (1) need to be amended
22 to allow meetings through electronic communication devices
23 described in subsection (1), an amendment to the bylaws may be
24 adopted at a meeting conducted through electronic communication
25 devices described in subsection (1). This subsection does not apply
26 after September 30, 2022.

27 Sec. 5230. (1) ~~Special meetings~~ **A special meeting** of the
28 stockholders or members of a domestic stock or mutual insurer may
29 be called for purposes other than ~~those contemplated by sections~~



~~5214 (amendment of articles of incorporation)~~ **amending articles of incorporation under section 5214 and extending its corporate existence under section 5222, (extension of corporate duration),** by the directors at any time ~~when deemed~~ **they consider** advisable.

(2) Notice of ~~all meetings~~ **a meeting** of the members or stockholders ~~shall~~ **must** be given by mailing to each member or stockholder a copy of ~~such~~ **the** notice, postage prepaid, directed to his **or her** last known post office address at least 21 days ~~prior to~~ **before** the time fixed for ~~such~~ **the** meeting. ~~, and such~~ **The** notice ~~shall~~ **must** state the time and place, and if ~~it be a~~ **the meeting is** a special meeting, the purpose of ~~such~~ **the special** meeting. ÷
~~Provided, That notice~~ **However, notice** of the time and place of the annual meeting of a mutual insurer may be printed on the policy or certificate of renewal ~~in lieu~~ **instead** of mailing as required ~~in~~ **this section, under this subsection,** in which case ~~such~~ **the** notice ~~shall~~ **must** also be printed with the annual statement of ~~such~~ **the** insurer.

(3) A meeting of the stockholders or members may be conducted by means of electronic communications devices by which all stockholders or members participating may simultaneously participate in the meeting. A stockholder or member participating in a meeting allowed under this subsection is deemed to be present in person at a meeting. This subsection does not apply after September 30, 2022.

Sec. 5245. (1) A majority of the board of directors constitutes a quorum for the transaction of business, and the acts of a majority of the directors present at a meeting at which a quorum is present ~~shall be~~ **are** the acts of the board of directors.

(2) ~~Upon~~ **On** written notice of the time and place and purpose



1 or purposes of any special meeting, any of the directors, in-
2 between regular meetings of the board of directors, may consent in
3 writing to any specific action to be taken by the corporation, and
4 if approved by a majority of the directors at the special meeting,
5 including those consenting in writing, the action ~~shall be~~ **is** as
6 valid a corporation action as though authorized at a regular
7 meeting of the directors. The minutes of approval and action ~~shall~~
8 **must** be fully recorded, each written consent ~~shall~~ **must** be made a
9 part thereof, **of the minutes**, and the minutes and written consent
10 ~~shall~~ **must** be reviewed at the next regular meeting of the board of
11 directors.

12 (3) Unless prohibited by the articles of incorporation or
13 bylaws, action required or permitted to be taken under
14 authorization voted at a meeting of the board or a committee of the
15 board may be taken without a meeting if, before or after the
16 action, all members of the board then in office or of the committee
17 consent to the action in writing or by electronic transmission. The
18 written consents ~~shall~~ **must** be filed with the minutes of the
19 proceedings of the board or committee. The consent has the same
20 effect as a vote of the board or committee for all purposes.

21 (4) The board of directors may permit 1 or more directors to
22 participate in a regular or special meeting of the board, or a
23 committee of the board, or conduct the meeting, by means of
24 electronic communication devices that enable all participants in
25 the meeting to communicate with each other. A director
26 participating in a meeting under this subsection is deemed to be
27 present in person at the meeting. This subsection does not apply
28 after September 30, 2022.

