

REPRINT

**SUBSTITUTE FOR
SENATE BILL NO. 1219**

(As Passed the Senate May 10, 2000)

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 1101, 1103, 1105, 1125, and 8132
(MCL 500.1101, 500.1103, 500.1105, 500.1125, and 500.8132),
sections 1101, 1105, and 1125 as added by 1994 PA 226,
section 1103 as amended by 1994 PA 443, and section 8132 as added
by 1989 PA 302.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1101. For purposes of this chapter, a "qualified
2 United States financial institution" means an institution that
3 meets either subdivision (a) or (b):

4 (a) Is organized, or in the case of a United States office
5 of a foreign banking organization, is licensed, under ~~federal or~~
6 ~~state law~~ THE LAWS OF THE UNITED STATES OR ANY STATE IN THE
7 UNITED STATES, is regulated, supervised, and examined by federal

1 or state authorities having regulatory authority over banks and
2 trust companies, and has been determined by the commissioner to
3 meet such standards of financial condition and standing as are
4 considered necessary and appropriate to regulate the quality of
5 financial institutions whose letters of credit will be acceptable
6 to the commissioner.

7 (b) For those institutions that are eligible to act as a
8 fiduciary of a trust, is organized, or in the case of a United
9 States branch or agency office of a foreign banking organization,
10 is licensed, under ~~federal or state law~~ THE LAWS OF THE UNITED
11 STATES OR ANY STATE IN THE UNITED STATES, has been granted
12 authority to operate with fiduciary powers, and is regulated,
13 supervised, and examined by federal or state authorities having
14 regulatory authority over banks and trust companies.

15 Sec. 1103. (1) A ceding insurer shall be allowed credit for
16 reinsurance as either an asset or a ~~deduction~~ REDUCTION from
17 liability on account of reinsurance ceded only if the reinsurance
18 is ceded to an assuming insurer that is authorized to transact
19 insurance OR REINSURANCE in this state or that meets the require-
20 ments of subsection (2), ~~or~~ (3), OR (4). ~~Credit for reinsur-~~
21 ~~ance shall be allowed only to the extent that the amounts recov-~~
22 ~~erable are verified by the assuming insurer in statements filed~~
23 ~~with the commissioner pursuant to section 438.~~ FOR AN ASSUMING
24 INSURER THAT IS LICENSED TO TRANSACT INSURANCE OR REINSURANCE IN
25 THIS STATE OR THAT MEETS THE REQUIREMENTS OF SUBSECTION (2) OR
26 (3), CREDIT SHALL BE ALLOWED ONLY FOR CESSIONS OF THOSE KINDS OR
27 CLASSES OF BUSINESS THAT THE ASSUMING INSURER IS LICENSED OR

1 OTHERWISE PERMITTED TO WRITE OR ASSUME IN ITS STATE OF DOMICILE
2 OR, FOR A UNITED STATES BRANCH OF AN ALIEN INSURER, IN THE STATE
3 THROUGH WHICH IT IS ENTERED AND IS LICENSED TO TRANSACT INSURANCE
4 OR REINSURANCE.

5 (2) A CEDING INSURER SHALL BE ALLOWED CREDIT FOR REINSURANCE
6 CEDED AS EITHER AN ASSET OR A REDUCTION FROM LIABILITY ON ACCOUNT
7 OF REINSURANCE CEDED IF THE REINSURANCE IS CEDED TO AN ASSUMING
8 INSURER THAT IS ACCREDITED AS A REINSURER IN THIS STATE. CREDIT
9 FOR REINSURANCE CEDED IS NOT ALLOWED IF THE ASSUMING INSURER'S
10 ACCREDITATION HAS BEEN REVOKED BY THE COMMISSIONER AFTER NOTICE
11 AND HEARING. AN ACCREDITED REINSURER UNDER THIS SUBSECTION IS A
12 REINSURER THAT MEETS ALL OF THE FOLLOWING:

13 (A) FILES WITH THE COMMISSIONER EVIDENCE OF THE REINSURER'S
14 SUBMISSION TO THIS STATE'S JURISDICTION.

15 (B) SUBMITS TO THIS STATE'S AUTHORITY TO EXAMINE ITS BOOKS
16 AND RECORDS.

17 (C) IS LICENSED TO TRANSACT INSURANCE OR REINSURANCE IN AT
18 LEAST 1 STATE OR FOR A UNITED STATES BRANCH OF AN ALIEN ASSUMING
19 INSURER IS ENTERED THROUGH AND LICENSED TO TRANSACT INSURANCE OR
20 REINSURANCE IN AT LEAST 1 STATE.

21 (D) FILES ANNUALLY WITH THE COMMISSIONER A COPY OF ITS
22 ANNUAL STATEMENT FILED WITH THE INSURANCE DEPARTMENT OF ITS STATE
23 OF DOMICILE AND A COPY OF ITS MOST RECENT AUDITED FINANCIAL
24 STATEMENT AND MEETS 1 OF THE FOLLOWING:

25 (i) MAINTAINS A SURPLUS AS REGARDS POLICYHOLDERS OF
26 \$20,000,000.00 OR MORE AND WHOSE ACCREDITATION HAS NOT BEEN
27 DENIED BY THE COMMISSIONER WITHIN 90 DAYS OF ITS SUBMISSION.

1 (ii) MAINTAINS A SURPLUS AS REGARDS POLICYHOLDERS OF LESS
2 THAN \$20,000,000.00 AND WHOSE ACCREDITATION HAS BEEN APPROVED BY
3 THE COMMISSIONER.

4 (3) ~~(2) Credit~~ A CEDING INSURER shall be allowed ~~when~~
5 CREDIT FOR REINSURANCE CEDED AS EITHER AN ASSET OR A REDUCTION
6 FROM LIABILITY ON ACCOUNT OF REINSURANCE CEDED IF the reinsurance
7 is ceded to an assuming insurer ~~which~~ THAT maintains a trust
8 fund in a qualified United States financial institution for the
9 payment of the valid claims of its United States ~~policyholders~~
10 ~~and~~ ceding insurers, their assigns, and successors in interest,
11 THE TRUST AGREEMENT COMPLIES WITH SUBSECTION (7), and THE ASSUM-
12 ING INSURER submits to the commissioner's authority to examine
13 its books and records and bears the expense of the examination.
14 The assuming insurer shall report annually to the commissioner
15 information substantially the same as that required to be
16 reported by authorized insurers pursuant to section 438 to enable
17 the commissioner to determine the sufficiency of the trust fund.
18 ~~(a)~~ The trust fund shall ~~consist~~ MEET ALL of the following:
19 (A) ~~(i) In the case of~~ FOR a single assuming insurer, the
20 trust shall consist of a trustee account representing the assum-
21 ing insurer's liabilities attributable to ~~business written in~~
22 ~~the~~ REINSURANCE CEDED BY United States CEDING INSURERS and, in
23 addition, the assuming insurer shall maintain a trustee surplus
24 of an amount sufficient in the opinion of the commissioner to
25 maintain compliance with section 403 as respects ~~business writ-~~
26 ~~ten in the~~ REINSURANCE CEDED BY United States CEDING INSURERS
27 but not less than \$20,000,000.00.

1 (B) ~~(ii) In the case of~~ FOR a group including incorporated
2 and individual unincorporated underwriters: ~~, the trust shall~~
3 ~~consist of a trustee account representing the group's liabili-~~
4 ~~ties attributable to business written in the United States and,~~
5 ~~in~~

6 (i) FOR REINSURANCE CEDED UNDER REINSURANCE AGREEMENTS WITH
7 AN INCEPTION DATE, AMENDMENT, OR RENEWAL DATE ON OR AFTER
8 AUGUST 1, 1995, THE TRUST SHALL CONSIST OF A TRUSTEED ACCOUNT IN
9 AN AMOUNT NOT LESS THAN THE GROUP'S SEVERAL LIABILITIES ATTRIBUT-
10 ABLE TO BUSINESS CEDED BY UNITED STATES DOMICILED CEDING INSURERS
11 TO ANY GROUP MEMBER.

12 (ii) FOR REINSURANCE CEDED UNDER REINSURANCE AGREEMENTS WITH
13 AN INCEPTION DATE ON OR BEFORE JULY 31, 1995, AND NOT AMENDED OR
14 RENEWED AFTER THAT DATE, NOTWITHSTANDING ANY OTHER PROVISION OF
15 THIS SECTION, THE TRUST SHALL CONSIST OF A TRUSTEED ACCOUNT IN AN
16 AMOUNT NOT LESS THAN THE GROUP'S SEVERAL INSURANCE AND REINSUR-
17 ANCE LIABILITIES ATTRIBUTABLE TO BUSINESS WRITTEN IN THE UNITED
18 STATES.

19 (iii) IN addition TO SUBPARAGRAPHS (i) AND (ii), the group
20 shall maintain a trustee surplus of which an amount sufficient
21 in the opinion of the commissioner to maintain compliance with
22 section 403 as respects ~~business written in the~~ REINSURANCE
23 CEDED BY United States DOMICILED CEDING INSURERS but not less
24 than \$100,000,000.00 shall be held jointly for the benefit of
25 United States DOMICILED ceding insurers of any member of the
26 group FOR ALL YEARS OF ACCOUNT. The incorporated members of the
27 group shall not be engaged in any business other than

1 underwriting as a member of the group and ~~shall be~~ ARE subject
2 to the same level of ~~solveny~~ regulation and SOLVENCY control
3 by the group's domiciliary regulator as are the unincorporated
4 members. ~~The~~ WITHIN 90 DAYS AFTER ITS FINANCIAL STATEMENTS ARE
5 DUE TO BE FILED WITH THE GROUP'S DOMICILIARY REGULATOR, THE group
6 shall ~~make available to~~ PROVIDE the commissioner WITH an annual
7 certification of the solvency of each underwriter MEMBER by the
8 group's domiciliary regulator ~~and its~~ OR IF CERTIFICATION IS
9 UNAVAILABLE, FINANCIAL STATEMENTS PREPARED BY independent public
10 ~~accountant~~ ACCOUNTANTS FOR EACH UNDERWRITER GROUP MEMBER.

11 ~~-(iii) In the case of a group of incorporated insurers under~~
12 ~~common administration which complies with the reporting require=~~
13 ~~ments contained in this section, and which has continuously~~
14 ~~transacted an insurance business outside the United States for at~~
15 ~~least 3 years, and which has aggregate policyholders' surplus of~~
16 ~~\$10,000,000,000.00, the trust shall be in an amount equal to the~~
17 ~~group's several liabilities attributable to business ceded by~~
18 ~~United States ceding insurers to any member of the group pursuant~~
19 ~~to reinsurance contracts issued in the name of such group. In~~
20 ~~addition, the group shall maintain a joint trustee surplus of~~
21 ~~which an amount sufficient in the opinion of the commissioner to~~
22 ~~maintain compliance with section 403 as respects business written~~
23 ~~in the United States but not less than \$100,000,000.00 shall be~~
24 ~~held jointly for the benefit of United States ceding insurers of~~
25 ~~any member of the group as additional security for any liabili=~~
26 ~~ties, and each member of the group shall make available to the~~
27 ~~commissioner an annual certification of the member's solvency by~~

1 ~~the member's domiciliary regulator and its independent public~~
2 ~~accountant.~~

3 (c) ~~-(b)-~~ The trust AND ANY AMENDMENTS TO THE TRUST shall be
4 established in a form approved by the commissioner OF THE STATE
5 WHERE THE TRUST IS DOMICILED OR THE COMMISSIONER OF ANOTHER STATE
6 WHO PURSUANT TO THE TRUST INSTRUMENT TERMS HAS ACCEPTED PRINCIPAL
7 REGULATORY OVERSIGHT OF THE TRUST. The trust instrument shall
8 provide that contested claims shall be valid and enforceable upon
9 the final order of any court of competent jurisdiction in the
10 United States. The trust shall vest legal title to its assets in
11 the trustees of the trust for its United States ~~policyholders~~
12 ~~and~~ ceding insurers ~~,~~ AND their assigns and successors in
13 interest. The trust ~~shall be~~ AND THE ASSUMING INSURER ARE
14 subject to examination as determined by the commissioner, and the
15 expense of the examination shall be borne by the assuming
16 insurer. The trust ~~described herein must~~ SHALL remain in
17 effect for as long as the assuming insurer has outstanding obli-
18 gations due under the reinsurance agreements subject to the
19 trust.

20 (d) ~~-(c)-~~ No later than February 28 of each year, the trust-
21 ees of the trust shall report to the commissioner in writing
22 ~~setting forth~~ the balance of the trust and listing the trust's
23 investments at the preceding year end and shall certify the date
24 of termination of the trust, if so planned, or certify that the
25 trust ~~shall~~ DOES not expire prior to the ~~next~~ following
26 December 31.

1 (4) ~~-(3) Credit shall be allowed-~~ A CEDING INSURER SHALL BE
2 ALLOWED CREDIT FOR REINSURANCE CEDED AS EITHER AN ASSET OR A
3 REDUCTION FROM LIABILITY ON ACCOUNT OF REINSURANCE CEDED if rein-
4 surance is ceded to an assuming insurer not meeting the require-
5 ments of this section but only for the insurance of risks located
6 in jurisdictions where the reinsurance is required by applicable
7 law or regulation of that jurisdiction.

8 (5) ~~-(4) If the assuming insurer is not authorized-~~
9 LICENSED OR ACCREDITED to transact insurance or reinsurance in
10 this state, the credit permitted by subsection ~~-(2)~~ (3) shall
11 not be allowed unless the assuming insurer agrees in the reinsur-
12 ance agreements TO BOTH OF THE FOLLOWING:

13 (a) That ~~in the event of the failure of~~ IF the assuming
14 insurer FAILS to perform its obligations under the terms of the
15 reinsurance agreement, the assuming insurer, at the request of
16 the ceding insurer, shall submit to the jurisdiction of any court
17 of competent jurisdiction in any state of the United States, will
18 comply with all requirements necessary to give ~~such~~ THE court
19 ~~jurisdictions~~ JURISDICTION, and will abide by the final deci-
20 sion of ~~such~~ THE court or any appellate court ~~in the event of~~
21 IF THERE IS an appeal.

22 (b) To designate the commissioner or a designated attorney
23 as its true and lawful attorney upon whom may be served any
24 lawful process in any action, suit, or proceeding instituted by
25 or on behalf of the ceding ~~company~~ INSURER.

26 (6) ~~-(5)~~ The provisions of subsection ~~-(4)~~ (5) are not
27 intended to conflict with or override the obligation of the

1 parties to a reinsurance agreement to arbitrate their disputes,
2 if such an obligation is created in the agreement.

3 ~~(6) The commissioner may allow credit for reinsurance that~~
4 ~~does not otherwise meet the requirements of this section if all~~
5 ~~of the following are met:~~

6 ~~(a) The amount is not material to the ceding insurer's abil-~~
7 ~~ity to meet the standards of section 901.~~

8 ~~(b) The commissioner is satisfied that the assuming insurers~~
9 ~~meet the requirements of section 403.~~

10 ~~(c) The amounts are substantially confirmed in statements~~
11 ~~filed with the commissioner pursuant to section 438 or in similar~~
12 ~~statements filed in the assuming insurer's domiciliary jurisdic-~~
13 ~~tion and available to the commissioner.~~

14 (7) THE CREDIT PERMITTED BY SUBSECTION (3) SHALL NOT BE
15 ALLOWED UNLESS THE ASSUMING INSURER AGREES IN THE TRUST AGREEMENT
16 TO ALL OF THE FOLLOWING:

17 (A) NOTWITHSTANDING ANY OTHER PROVISIONS IN THE TRUST
18 INSTRUMENT, IF THE TRUST FUND IS INADEQUATE BECAUSE IT CONTAINS
19 AN AMOUNT LESS THAN THE AMOUNT REQUIRED BY SUBSECTION (3), OR IF
20 THE TRUST GRANTOR HAS BEEN DECLARED OR PLACED INTO RECEIVERSHIP,
21 REHABILITATION, LIQUIDATION, OR SIMILAR PROCEEDINGS UNDER THE
22 LAWS OF ITS STATE OR COUNTRY OF DOMICILE, THE TRUSTEE SHALL
23 COMPLY WITH AN ORDER OF THE COMMISSIONER WITH REGULATORY OVER-
24 SIGHT OVER THE TRUST OR WITH AN ORDER OF A COURT OF COMPETENT
25 JURISDICTION DIRECTING THE TRUSTEE TO TRANSFER TO THE COMMIS-
26 SIONER WITH REGULATORY OVERSIGHT ALL OF THE ASSETS OF THE TRUST
27 FUND.

1 (B) THE ASSETS SHALL BE DISTRIBUTED BY AND CLAIMS SHALL BE
2 FILED WITH AND VALUED BY THE COMMISSIONER WITH REGULATORY OVER-
3 SIGHT IN ACCORDANCE WITH THE LAWS OF THE STATE IN WHICH THE TRUST
4 IS DOMICILED THAT ARE APPLICABLE TO THE LIQUIDATION OF DOMESTIC
5 INSURANCE COMPANIES.

6 (C) IF THE COMMISSIONER WITH REGULATORY OVERSIGHT DETERMINES
7 THAT THE TRUST FUND ASSETS OR ANY PART OF THE TRUST FUND ASSETS
8 IS NOT NECESSARY TO SATISFY THE CLAIMS OF THE UNITED STATES
9 CEDING INSURERS OF THE TRUST GRANTOR, THE TRUST FUND ASSETS OR
10 ANY PART OF THE TRUST FUND ASSETS SHALL BE RETURNED BY THE COM-
11 MISSIONER WITH REGULATORY OVERSIGHT TO THE TRUSTEE FOR DISTRIBUTION
12 IN ACCORDANCE WITH THE TRUST AGREEMENT.

13 (D) THE TRUST GRANTOR WAIVES ANY RIGHT OTHERWISE AVAILABLE
14 UNDER UNITED STATES LAWS INCONSISTENT WITH SUBDIVISIONS (A) TO
15 (C).

16 Sec. 1105. ~~—A—~~ AN ASSET OR A reduction from liability for
17 the reinsurance ceded by a ceding insurer to an assuming insurer
18 not meeting the requirements of section 1103 shall be allowed in
19 an amount not exceeding the liabilities carried by the ceding
20 insurer, and the reduction shall be in the amount of funds held
21 by or on behalf of the ceding insurer, including funds held in
22 trust for the ceding insurer, under a reinsurance contract with
23 the assuming insurer as security for the payment of obligations
24 thereunder, if the security is held in the United States subject
25 to withdrawal solely by, and under the exclusive control of, the
26 ceding insurer and, for a trust, held in a qualified United

1 States financial institution. This security may be in the form
2 of any of the following:

3 (a) Cash.

4 (b) Securities that may be valued by the commissioner in
5 accordance with sections 841 and 842 and are approved for invest-
6 ment by insurers under chapter 9.

7 (c) Clean, irrevocable, unconditional letters of credit,
8 issued or confirmed by a qualified United States financial insti-
9 tution no later than December 31 of the year for which filing is
10 being made, and in the possession of the ceding insurer on or
11 before the filing date of its annual statement. Letters of
12 credit meeting applicable standards of issuer acceptability as of
13 the dates of their issuance or confirmation shall, notwithstand-
14 ing the issuing or confirming institution's subsequent failure to
15 meet applicable standards of issuer acceptability, continue to be
16 acceptable as security until their expiration, extension, renew-
17 al, modification, or amendment, whichever occurs first.

18 (D) ANY OTHER FORM OF SECURITY ACCEPTABLE TO THE
19 COMMISSIONER.

20 Sec. 1125. (1) Neither a reinsurance agreement nor any
21 amendment to that agreement shall be used to reduce any liability
22 or to establish any asset in any financial statement filed with
23 the commissioner unless the agreement, amendment, or a binding
24 letter of intent has been duly executed by ~~both parties~~ THE
25 APPROPRIATE PARTY no later than the ~~"as of date"~~ FILING DATE of
26 the financial statement.

1 (2) For a letter of intent, a reinsurance agreement, or an
2 amendment to a reinsurance agreement shall be executed within a
3 reasonable period of time ~~, not exceeding 90 days from the exe-~~
4 ~~cution date of the letter of intent,~~ in order for credit to be
5 granted for the reinsurance ceded. AS USED IN THIS SUBSECTION,
6 "REASONABLE PERIOD OF TIME" MEANS THAT PERIOD OF TIME AS PROVIDED
7 BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS ACCOUNTING
8 PRACTICES AND PROCEDURES MANUAL AND AS APPROVED BY THE
9 COMMISSIONER.

10 (3) ~~A~~ EXCEPT FOR FACULTATIVE CERTIFICATES DULY EXECUTED BY
11 A PROPERTY AND CASUALTY REINSURER OR ITS DULY APPOINTED AGENT, A
12 reinsurance agreement shall contain ~~both of the following~~
13 ~~provisions:~~

14 ~~(a) That the agreement constitutes the entire agreement~~
15 ~~between the parties with respect to the business being reinsured~~
16 ~~thereunder and that there are no understandings between the par-~~
17 ~~ties other than as expressed in the agreement.~~

18 ~~(b) That~~ IN SUBSTANCE A PROVISION THAT any change or modi-
19 fication to the agreement is null and void unless made by amend-
20 ment to the agreement and signed by both parties.

21 (4) A CEDING INSURER SHALL NOT BE ALLOWED CREDIT FOR REIN-
22 SURANCE CEDED AS EITHER AN ASSET OR A REDUCTION FROM LIABILITY ON
23 ACCOUNT OF REINSURANCE CEDED, UNLESS THE REINSURANCE CONTRACT
24 PROVIDES, IN SUBSTANCE, THAT IF THE CEDING INSURER BECOMES INSOL-
25 VENT, THE REINSURANCE SHALL BE PAYABLE PURSUANT TO THE TERMS OF
26 THE REINSURANCE CONTRACT BY THE ASSUMING INSURER ON THE BASIS OF
27 REPORTED CLAIMS ALLOWED BY THE LIQUIDATION COURT, EXCEPT AS

1 PROVIDED IN SUBSECTION (6), WITHOUT DIMINUTION BECAUSE OF THE
2 INSOLVENCY OF THE CEDING INSURER. THE PAYMENTS SHALL BE MADE
3 DIRECTLY TO THE CEDING INSURER OR ITS DOMICILIARY LIQUIDATOR
4 UNLESS THE REINSURANCE CONTRACT REQUIRES OR AN ENDORSEMENT SIGNED
5 BY THE REINSURER TO THE POLICIES REINSURED REQUIRES THE REINSURER
6 TO MAKE PAYMENT TO THE PAYEES UNDER THE POLICIES REINSURED IF THE
7 CEDING INSURER BECOMES INSOLVENT.

8 (5) THE REINSURANCE AGREEMENT MAY PROVIDE THAT THE DOMICILI-
9 ARY LIQUIDATOR OF AN INSOLVENT CEDING INSURER SHALL GIVE WRITTEN
10 NOTICE TO THE ASSUMING INSURER OF THE PENDENCY OF A CLAIM AGAINST
11 THE CEDING INSURER ON THE CONTRACT REINSURED WITHIN A REASONABLE
12 TIME AFTER THE CLAIM IS FILED IN THE LIQUIDATION PROCEEDING.

13 (6) IF A LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION OR
14 ITS DESIGNATED SUCCESSOR LIFE OR HEALTH INSURER HAS ASSUMED
15 POLICY OBLIGATIONS AS DIRECT OBLIGATIONS OF THE INSOLVENT CEDING
16 INSURER AND HAS SUCCEEDED TO THE RIGHTS OF THE INSOLVENT INSURER
17 UNDER THE CONTRACT OF REINSURANCE, THEN THE REINSURER'S LIABILITY
18 SHALL CONTINUE UNDER THE CONTRACT OF REINSURANCE AND SHALL BE
19 PAYABLE PURSUANT TO THE DIRECTION OF THE GUARANTY ASSOCIATION OR
20 ITS DESIGNATED SUCCESSOR. AS A CONDITION TO SUCCEEDING TO THE
21 INSOLVENT INSURER'S RIGHTS UNDER THE CONTRACT, THE GUARANTY ASSO-
22 CIATION OR SUCCESSOR LIFE OR HEALTH INSURER SHALL BE RESPONSIBLE
23 FOR PREMIUMS PAYABLE UNDER THE REINSURANCE CONTRACT FOR PERIODS
24 AFTER THE DATE OF LIQUIDATION.

25 Sec. 8132. (1) The amount recoverable by the liquidator
26 from reinsurers shall not be reduced as a result of the
27 delinquency proceedings, regardless of any provision in the

1 reinsurance contract or other agreement. THE REINSURANCE SHALL
2 BE PAYABLE PURSUANT TO THE TERMS OF THE REINSURANCE CONTRACT BY
3 THE ASSUMING INSURER ON THE BASIS OF REPORTED CLAIMS ALLOWED BY
4 THE LIQUIDATION COURT, EXCEPT AS PROVIDED IN SUBSECTION (2),
5 WITHOUT DIMINUTION BECAUSE OF THE INSOLVENCY OF THE CEDING
6 INSURER. Payment made directly to an insured or other creditor
7 shall not diminish the reinsurer's obligation to the insurer's
8 estate ~~unless the reinsurance contract provided for direct cov-~~
9 ~~erage of a named insured and the payment was made in discharge of~~
10 ~~that obligation~~ UNLESS THE REINSURANCE CONTRACT REQUIRES OR AN
11 ENDORSEMENT SIGNED BY THE REINSURER TO THE POLICIES REINSURED
12 REQUIRES THE REINSURER TO MAKE PAYMENT TO THE PAYEES UNDER THE
13 POLICIES REINSURED IF THE CEDING INSURER BECAME INSOLVENT.

14 (2) IF A LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION OR
15 ITS DESIGNATED SUCCESSOR LIFE OR HEALTH INSURER HAS ASSUMED
16 POLICY OBLIGATIONS AS DIRECT OBLIGATIONS OF THE INSOLVENT CEDING
17 INSURER AND HAS SUCCEEDED TO THE RIGHTS OF THE INSOLVENT INSURER
18 UNDER THE CONTRACT OF REINSURANCE, THEN THE REINSURER'S LIABILITY
19 SHALL CONTINUE UNDER THE CONTRACT OF REINSURANCE AND SHALL BE
20 PAYABLE PURSUANT TO THE DIRECTION OF THE GUARANTY ASSOCIATION OR
21 ITS DESIGNATED SUCCESSOR. AS A CONDITION TO SUCCEEDING TO THE
22 INSOLVENT INSURER'S RIGHTS UNDER THE CONTRACT, THE GUARANTY ASSO-
23 CIATION OR SUCCESSOR LIFE OR HEALTH INSURER SHALL BE RESPONSIBLE
24 FOR PREMIUMS PAYABLE UNDER THE REINSURANCE CONTRACT FOR PERIODS
25 AFTER THE DATE OF LIQUIDATION.

26 Enacting section 1. The legislature declares that the
27 provisions of this amendatory act are fundamental to the business

SB1219, As Passed House, June 20, 2000

Senate Bill No. 1219

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1 of insurance as provided in sections 1 and 2 of chapter 20,
2 popularly known as the McCarran-Ferguson act, 59 Stat. 33 and 34,
3 15 U.S.C. 1011 and 1012. It is the intent of this amendatory act
4 that upon the insolvency of an alien insurer or reinsurer that
5 provides security to fund its United States obligations under the
6 insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, the
7 assets representing the security shall be maintained in the
8 United States and claims shall be filed with and valued by the
9 state insurance commissioner with regulatory oversight, and the
10 assets shall be distributed under the insurance laws of the state
11 where the trust is domiciled that are applicable to the liquida-
12 tion of domestic United States insurance companies.