

HOUSE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 551

AN ACT

To repeal sections 303.200, 375.246, 376.782, 379.860, 383.155, 383.160, and 383.175, RSMo, and to enact in lieu thereof twenty-one new sections relating to regulation of certain personal lines insurance services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Sections 303.200, 375.246, 376.782, 379.860, 383.155, 383.160, and 383.175, RSMo, are repealed and twenty-one new sections enacted in lieu thereof, to be known as sections 194.320, 303.200, 375.029, 375.246, 376.782, 376.1590, 379.402, 379.404, 379.860, 379.1800, 379.1802, 379.1804, 379.1806, 379.1808, 379.1810, 379.1812, 379.1814, 379.1816, 383.155, 383.160, and 383.175, to read as follows:

194.320. 1. No hospital, as defined in section 197.020, physician, procurement organization, as defined in section 194.210, or other person shall determine the ultimate recipient of an anatomical gift based upon a potential recipient's physical or mental disability or congenital condition, except to the extent that the physical or mental disability or congenital condition has been found by a physician, following a case-by-case evaluation of the potential recipient, to be medically significant to the provision of the anatomical gift. The

1 provisions of this subsection shall apply to each part of the
2 organ transplant process, including, but not limited to, the
3 following:

4 (1) The referral from a primary care provider to a
5 specialist;

6 (2) The referral from a specialist to a transplant center;

7 (3) The evaluation of the patient for the transplant by the
8 transplant center; and

9 (4) The consideration of the patient for placement on an
10 official waiting list.

11 2. A person with a physical or mental disability or
12 congenital condition shall not be required to demonstrate
13 postoperative independent living abilities in order to have
14 access to a transplant if there is evidence that the person will
15 have sufficient, compensatory support and assistance.

16 3. A court of competent jurisdiction shall accord priority
17 on its calendar and handle expeditiously any action brought to
18 seek any remedy authorized by law for purposes of enforcing
19 compliance with the provisions of this section.

20 4. This section shall not be deemed to require referrals or
21 recommendations for or the performance of medically inappropriate
22 organ transplants.

23 5. As used in this section, "disabilities" shall have the
24 same meaning as in the federal Americans with Disabilities Act of
25 1990, 42 U.S.C. 12101, et seq.

26 303.200. 1. After consultation with insurance companies
27 ~~[authorized to issue automobile liability policies]~~ having a

1 certificate of authority to do business in this state and
2 actively writing motor vehicle liability policies, the director
3 of the department of commerce and insurance, hereinafter referred
4 to as the director, shall approve a reasonable plan [~~or plans for~~
5 ~~the equitable apportionment among such companies of applicants~~
6 ~~for such policies and for personal automobile and commercial~~
7 ~~motor vehicle liability] to provide motor vehicle insurance
8 policies for applicants who are in good faith entitled to but are
9 unable to procure such policies through ordinary methods. The
10 plan shall be known as the "Missouri Automobile Insurance Plan",
11 hereinafter referred to as the plan. When any such plan has been
12 approved, all such insurance companies shall subscribe thereto
13 and participate therein. [~~The plan manager, on the plan's behalf,~~
14 ~~shall contract with an entity or entities to accept and service~~
15 ~~applicants and policies for any company that does not elect to~~
16 ~~accept and service applicants and policies. By October first of~~
17 ~~each year any company that elects to accept and service~~
18 ~~applicants and policies for the next calendar year for any such~~
19 ~~plan shall so notify the plan. Except as provided in subsection~~
20 ~~2 of this section, any company that does not so notify a plan~~
21 ~~established for handling coverage for personal automobile risks~~
22 ~~shall be excused from accepting and servicing applicants and~~
23 ~~policies for the next calendar year for such plan and shall pay a~~
24 ~~fee to the plan or servicing entity for providing such services.~~
25 ~~The fee shall be based on the company's market share as~~
26 ~~determined by the company's writings of personal automobile risks~~
27 ~~in the voluntary market.] Any applicant for [~~any such~~] a policy,~~~~

1 any person insured under ~~[any such]~~ the plan, and any insurance
2 company affected may appeal to the director from any ruling or
3 decision of the ~~[manager or committee designated to operate such]~~
4 plan. Any person aggrieved hereunder by any order or act of the
5 director may, within ten days after notice thereof, file a
6 petition in the circuit court of the county of Cole for a review
7 thereof. The court shall summarily hear the petition and may
8 make any appropriate order or decree. ~~[As used in this section,~~
9 ~~the term "personal automobile" means a private passenger nonfleet~~
10 ~~vehicle, motorcycle, camper and travel trailer, antique auto,~~
11 ~~amphibious auto, motor home, named nonowner applicant, or a~~
12 ~~low-speed vehicle subject to chapter 304 which is not primarily~~
13 ~~used for business or nonprofit interests and which is generally~~
14 ~~used for personal, family, or household purposes.]~~

15 2. ~~[If the total premium volume for any one plan established~~
16 ~~for handling coverage for personal automobile risks exceeds ten~~
17 ~~million dollars in a calendar year, a company with more than five~~
18 ~~percent market share of such risks in Missouri shall not be~~
19 ~~excused from accepting and servicing applicants and policies of~~
20 ~~such plan under subsection 1 of this section for the next~~
21 ~~calendar year, unless the governing body of the plan votes to~~
22 ~~allow any company with such market share the option to be~~
23 ~~excused]~~ The plan shall perform its functions under a plan of
24 operation and through a governing committee as prescribed in the
25 plan of operation. Any plan of operation, prior to taking
26 effect, shall be filed and approved by the director. Any
27 amendments to the plan of operation so adopted shall also be

1 filed with and approved by the director prior to taking effect.

2 3. The plan of operation shall prescribe the issuance of
3 motor vehicle insurance policies by the plan, which may include
4 the administration of such policies by:

5 (1) A third party administrator that has a certificate of
6 authority to do business in this state;

7 (2) A nationally recognized management organization and
8 service provider that specializes in the administration of motor
9 vehicle insurance residual market mechanisms, subject to the
10 approval of the director; or

11 (3) An insurance company that has a certificate of
12 authority to do business in this state.

13 4. Every form of a policy, endorsement, rider, manual of
14 classifications, rules, and rates; every rating plan; and every
15 modification of any of them proposed to be used by the plan shall
16 be approved by the director prior to use.

17 5. Any policy of insurance issued by the plan shall conform
18 to the provisions of this chapter and any insurance law of this
19 state applicable to motor vehicle insurance policies, except for
20 any law that specifically exempts the plan from the purview of
21 the law.

22 6. The plan shall:

23 (1) File annual audited financial reports for the preceding
24 year with the director no later than June thirtieth of each year;

25 (2) Be subject to examination by the director under
26 sections 374.205 to 374.207; and

27 (3) Have the authority to make assessments on member

1 insurance companies if the funds from policyholder premiums and
2 other revenues are not sufficient for the sound operation of the
3 plan. An assessment upon a member insurance company shall be in
4 the same proportion to its share of the voluntary market premium
5 for the type of policies written under the plan. The procedures
6 for levying assessment shall be prescribed in the plan of
7 operation.

8 7. There shall be no liability imposed on the part of, and
9 no cause of action of any nature shall arise against any member
10 insurer or any member of the governing committee for any omission
11 or action taken by them in the performance of their powers and
12 duties under this section.

13 375.029. 1. As used in this section, the following terms
14 mean:

15 (1) "Director", the director of the department of commerce
16 and insurance;

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

20 2. (1) Subject to approval by the director, an insurance
21 producer's active participation as an individual member or
22 employee of a business entity producer member of a local,
23 regional, state, or national professional insurance association
24 may be approved for up to four hours of continuing education
25 credit per each biennial reporting period.

26 (2) An insurance producer shall not use continuing
27 education credit granted under this section to satisfy continuing

1 education hours required to be completed in a classroom or
2 classroom-equivalent setting, or to satisfy any continuing
3 education ethics requirements.

4 (3) The continuing education hours referenced in
5 subdivision (1) of subsection 2 of this section shall be credited
6 upon the timely filing with the director by the insurance
7 producer of an appropriate written statement in a form acceptable
8 to the director, or by a certification from the local, regional,
9 state, or national professional insurance association through
10 written form or electronic filing acceptable to the director.

11 3. The director may promulgate all necessary rules and
12 regulations for the administration of this section. Any rule or
13 portion of a rule, as that term is defined in section 536.010,
14 that is created under the authority delegated in this section
15 shall become effective only if it complies with and is subject to
16 all of the provisions of chapter 536 and, if applicable, section
17 536.028. This section and chapter 536 are nonseverable, and if
18 any of the powers vested with the general assembly pursuant to
19 chapter 536 to review, to delay the effective date, or to
20 disapprove and annul a rule are subsequently held
21 unconstitutional, then the grant of rulemaking authority and any
22 rule proposed or adopted after August 28, 2020, shall be invalid
23 and void.

24 375.246. 1. Credit for reinsurance shall be allowed a
25 domestic ceding insurer as either an asset or a reduction from
26 liability on account of reinsurance ceded only when the reinsurer
27 meets the requirements of ~~[subdivisions]~~ subdivision (1) [to],

1 (2), (3), (4), (5), (6), or (7) of this subsection; provided
2 that, the director may adopt by rule; under subdivision (2) of
3 subsection 4 of this section, specific additional requirements
4 relating to or setting forth the valuation of assets or reserve
5 credits, the amount and forms of security supporting reinsurance
6 arrangements described in subdivision (2) of subsection 4 of this
7 section, or the circumstances under which credit will be reduced
8 or eliminated. Credit shall be allowed pursuant to subdivision
9 (1), (2) or (3) of this subsection only as respects cessions of
10 those kinds or classes of business which the assuming insurer is
11 licensed or otherwise permitted to write or assume in its state
12 of domicile or, in the case of a United States branch of an alien
13 assuming insurer, in the state through which it is entered and
14 licensed to transact insurance or reinsurance. Credit shall be
15 allowed pursuant to subdivision (3), (4), or (5) of this
16 subsection only if the applicable requirements of subdivision
17 ~~[(7)]~~ (8) have been satisfied.

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

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

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

27 (b) Submit to the authority of the department of commerce

1 and insurance to examine its books and records;

2 (c) Be licensed to transact insurance or reinsurance in at
3 least one state, or in the case of a United States branch of an
4 alien assuming insurer is entered through and licensed to
5 transact insurance or reinsurance in at least one state;

6 (d) File annually with the director a copy of its annual
7 statement filed with the insurance department of its state of
8 domicile and a copy of its most recent audited financial
9 statement; and

10 (e) Demonstrate to the satisfaction of the director that it
11 has adequate financial capacity to meet its reinsurance
12 obligations and is otherwise qualified to assume reinsurance from
13 domestic insurers. An assuming insurer is deemed to meet such
14 requirement as of the time of its application if it maintains a
15 surplus regarding policyholders in an amount not less than twenty
16 million dollars and its accreditation has not been denied by the
17 director within ninety days after submission of its application;

18 (3) Credit shall be allowed when the reinsurance is ceded
19 to an assuming insurer that is domiciled in, or in the case of a
20 United States branch of an alien assuming insurer is entered
21 through, a state that employs standards regarding credit for
22 reinsurance substantially similar to those applicable under this
23 statute and the assuming insurer or United States branch of an
24 alien assuming insurer:

25 (a) Maintains a surplus as regards policyholders in an
26 amount not less than twenty million dollars; except that this
27 paragraph does not apply to reinsurance ceded and assumed

1 pursuant to pooling arrangements among insurers in the same
2 holding company system; and

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

5 (4) (a) Credit shall be allowed when the reinsurance is
6 ceded to an assuming insurer that maintains a trust fund in a
7 qualified United States financial institution, as defined in
8 subdivision (2) of subsection 3 of this section, for the payment
9 of the valid claims of its United States ceding insurers, their
10 assigns and successors in interest. To enable the director to
11 determine the sufficiency of the trust fund, the assuming insurer
12 shall report annually to the director information substantially
13 the same as that required to be reported on the National
14 Association of Insurance Commissioners' annual statement form by
15 licensed insurers. The assuming insurer shall submit to
16 examination of its books and records by the director.

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

20 a. The commissioner or director of the state agency
21 regulating insurance in the state where the trust is domiciled;
22 or

23 b. The commissioner or director of another state who,
24 pursuant to the terms of the trust instrument, has accepted
25 principal regulatory oversight of the trust.

26 (c) The form of the trust and any trust amendments shall
27 also be filed with the commissioner or director in every state in

1 which the ceding insurer beneficiaries of the trust are
2 domiciled. The trust instrument shall provide that contested
3 claims shall be valid and enforceable upon the final order of any
4 court of competent jurisdiction in the United States. The trust
5 shall vest legal title to its assets in its trustees for the
6 benefit of the assuming insurer's United States ceding insurers,
7 their assigns and successors in interest. The trust and the
8 assuming insurer shall be subject to examination as determined by
9 the director.

10 (d) The trust shall remain in effect for as long as the
11 assuming insurer has outstanding obligations due under the
12 reinsurance agreements subject to the trust. No later than
13 February twenty-eighth of each year the trustees of the trust
14 shall report to the director in writing the balance of the trust
15 and listing the trust's investments at the preceding year end and
16 shall certify the date of termination of the trust, if so
17 planned, or certify that the trust will not expire prior to the
18 next following December thirty-first.

19 (e) The following requirements apply to the following
20 categories of assuming insurers:

21 a. The trust fund for a single assuming insurer shall
22 consist of funds in trust in an amount not less than the assuming
23 insurer's liabilities attributable to reinsurance ceded by the
24 United States ceding insurers, and, in addition, the assuming
25 insurer shall maintain a trusteed surplus of not less than twenty
26 million dollars, except as provided in subparagraph b. of this
27 paragraph;

1 b. At any time after the assuming insurer has permanently
2 discontinued underwriting new business secured by the trust for
3 at least three full years, the director with principal regulator
4 oversight of the trust may authorize a reduction in the required
5 trustee surplus, but only after a finding based on an assessment
6 of risk that the new required surplus level is adequate for the
7 protection of United States ceding insurers, policyholders, and
8 claimants in light of reasonably foreseeable adverse loss
9 development. The risk assessment may involve an actuarial
10 review, including an independent analysis of reserves and cash
11 flows, and shall consider all material risk factors including,
12 when applicable, the lines of business involved, the stability of
13 the incurred loss estimates, and the effect of the surplus
14 requirements on the assuming insurer's liquidity or solvency.
15 The minimum required trustee surplus shall not be reduced to an
16 amount less than thirty percent of the assuming insurer's
17 liabilities attributable to reinsurance ceded by United States
18 ceding insurers covered by the trust;

19 c. In the case of a group of incorporated and individual
20 unincorporated underwriters:

21 (i) For reinsurance ceded under reinsurance agreements with
22 an inception, amendment or renewal date on or after January 1,
23 1993, the trust shall consist of a trustee account in an amount
24 not less than the respective underwriter's several liabilities
25 attributable to business ceded by United States domiciled ceding
26 insurers to any underwriter of the group;

27 (ii) For reinsurance ceded under reinsurance agreements

1 with an inception date on or before December 31, 1992, and not
2 amended or renewed after that date, notwithstanding the other
3 provisions of this section, the trust shall consist of a trustee
4 account in an amount not less than the respective underwriter's
5 several insurance and reinsurance liabilities attributable to
6 business in the United States; and

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

12 d. The incorporated members of the group shall not be
13 engaged in any business other than underwriting as a member of
14 the group and shall be subject to the same level of regulation
15 and solvency control by the group's domiciliary regulator as are
16 the unincorporated members;

17 e. Within ninety days after its financial statements are
18 due to be filed with the group's domiciliary regulator, the group
19 shall provide to the director an annual certification by the
20 group's domiciliary regulator of the solvency of each underwriter
21 member; or if a certification is unavailable, financial
22 statements, prepared by independent public accountants, of each
23 underwriter member of the group;

24 (5) (a) Credit shall be allowed when the reinsurance is
25 ceded to an assuming insurer that has been certified by the
26 director as a reinsurer in this state and secures its obligations
27 in accordance with the requirements of this subdivision.

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

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

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

10 c. The assuming insurer shall maintain financial strength
11 ratings from two or more rating agencies deemed acceptable by the
12 director by rule;

13 d. The assuming insurer shall agree to submit to the
14 jurisdiction of this state, appoint the director as its agent for
15 service of process in this state, and agree to provide security
16 for one hundred percent of the assuming insurer's liabilities
17 attributable to reinsurance ceded by United States ceding
18 insurers if it resists enforcement of a final United States
19 judgment;

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

24 f. The assuming insurer shall satisfy any other
25 requirements for certification deemed relevant by the director.

26 (c) An association including incorporated and individual
27 unincorporated underwriters may be a certified reinsurer. To be

1 eligible for certification, in addition to satisfying
2 requirements of paragraph (b) of this subdivision:

3 a. The association shall satisfy its minimum capital and
4 surplus requirements through the capital and surplus equivalents
5 (net of liabilities) of the association and its members, which
6 shall include a joint central fund that may be applied to any
7 unsatisfied obligation of the association or any of its members,
8 in an amount determined by the director to provide adequate
9 protection;

10 b. The incorporated members of the association shall not be
11 engaged in any business other than underwriting as a member of
12 the association and shall be subject to the same level of
13 regulation and solvency control by the association's domiciliary
14 regulator as are the unincorporated members; and

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

18 (i) An annual certification by the association's
19 domiciliary regulator of the solvency of each underwriter member;
20 or

21 (ii) If a certification is unavailable, financial
22 statements prepared by independent public accountants of each
23 underwriter member of the association.

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

1 b. To determine whether the domiciliary jurisdiction of a
2 non-United States assuming insurer is eligible to be recognized
3 as a qualified jurisdiction, the director shall evaluate the
4 appropriateness and effectiveness of the reinsurance supervisory
5 system of the jurisdiction, both initially and on an ongoing
6 basis, and consider the rights, benefits, and extent of
7 reciprocal recognition afforded by the non-United States
8 jurisdiction to reinsurers licensed and domiciled in the United
9 States. A qualified jurisdiction shall agree to share
10 information and cooperate with the director with respect to all
11 certified reinsurers domiciled within that jurisdiction. A
12 jurisdiction shall not be recognized as a qualified jurisdiction
13 if the director has determined that the jurisdiction does not
14 adequately and promptly enforce final United States judgments and
15 arbitration awards. Additional factors may be considered at the
16 discretion of the director.

17 c. The director may consider a list of qualified
18 jurisdictions published by the National Association of Insurance
19 Commissioners (NAIC) in determining qualified jurisdictions for
20 the purposes of this section. If the director approves a
21 jurisdiction as qualified that does not appear on the list of
22 qualified jurisdictions, the director shall provide thoroughly
23 documented justification in accordance with criteria to be
24 developed by rule.

25 d. United States jurisdictions that meet the requirement
26 for accreditation under the NAIC financial standards and
27 accreditation program shall be recognized as qualified

1 jurisdictions.

2 e. If a certified reinsurer's domiciliary jurisdiction
3 ceases to be a qualified jurisdiction, the director has the
4 discretion to suspend the reinsurer's certification indefinitely,
5 in lieu of revocation.

6 (e) The director shall assign a rating to each certified
7 reinsurer, giving due consideration to the financial strength
8 ratings that have been assigned by rating agencies deemed
9 acceptable to the director by rule. The director shall publish a
10 list of all certified reinsurers and their ratings.

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

15 b. For a domestic ceding insurer to qualify for full
16 financial statement credit for reinsurance ceded to a certified
17 reinsurer, the certified reinsurer shall maintain security in a
18 form acceptable to the director and consistent with the
19 provisions of this section or in a multibeneficiary trust in
20 accordance with paragraph (e) of subdivision (4) of this
21 subsection, except as otherwise provided in this subdivision.

22 c. If a certified reinsurer maintains a trust to fully
23 secure its obligations under paragraph (d) of subdivision (4) of
24 this subsection and chooses to secure its obligations incurred as
25 a certified reinsurer in the form of a multibeneficiary trust,
26 the certified reinsurer shall maintain separate trust accounts
27 for its obligations incurred under reinsurance agreements issued

1 or renewed as a certified reinsurer with reduced security as
2 permitted by this subsection or comparable laws of other United
3 States jurisdictions and for its obligations subject to paragraph
4 (e) of subdivision (4) of this subsection. It shall be a
5 condition to the grant of certification under this section that
6 the certified reinsurer shall have bound itself, by the language
7 of the trust and agreement with the director with principal
8 regulatory oversight of each such trust account, to fund, upon
9 termination of any such trust account, out of the remaining
10 surplus of such trust any deficiency of any other such trust
11 account.

12 d. The minimum trustee surplus requirements provided in
13 paragraph (e) of subdivision (4) of this subsection are not
14 applicable with respect to a multibeneficiary trust maintained by
15 a certified reinsurer for the purpose of securing obligations
16 incurred under this paragraph, except that such trust shall
17 maintain a minimum trustee surplus of ten million dollars.

18 e. With respect to obligations incurred by a certified
19 reinsurer under this paragraph, if the security is insufficient,
20 the director shall order the certified reinsurer to provide
21 sufficient security for such incurred obligations within thirty
22 days. If a certified reinsurer does not provide sufficient
23 security for its obligations incurred under this subsection
24 within thirty days of being ordered to do so by the director, the
25 director has the discretion to allow credit in the amount of the
26 required security for one year. Following this one-year period,
27 the director shall impose reductions in allowable credit upon

1 finding that there is a material risk that the certified
2 reinsurer's obligations will not be paid in full when due.

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

7 (ii) As used in this subparagraph, the term "terminated"
8 refers to revocation, suspension, voluntary surrender, and
9 inactive status.

10 (iii) If the director continues to assign a higher rating
11 as permitted by other provisions of this subdivision, this
12 requirement does not apply to a certified reinsurer in inactive
13 status or to a reinsurer whose certification has been suspended.

14 g. If an applicant for certification has been certified as
15 a reinsurer in an NAIC-accredited jurisdiction, the director has
16 the discretion to defer to that jurisdiction's certification and
17 to the rating assigned by that jurisdiction, and such assuming
18 insurer shall be considered to be a certified reinsurer in this
19 state.

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

1 (6) Credit:

2 (a) Shall be allowed when the reinsurance is ceded to an
3 assuming insurer meeting each of the conditions set forth below:

4 a. The assuming insurer shall have its head office or be
5 domiciled in, as applicable, and be licensed in a reciprocal
6 jurisdiction. A "reciprocal jurisdiction" is a jurisdiction that
7 meets one of the following:

8 (i) A non-United States jurisdiction that is subject to an
9 in-force covered agreement with the United States, each within
10 its legal authority, or, in the case of a covered agreement
11 between the United States and European Union, is a member state
12 of the European Union. For purposes of this subdivision, a
13 "covered agreement" is an agreement entered into pursuant to the
14 Dodd-Frank Wall Street Reform and Consumer Protection Act, 31
15 U.S.C. Sections 313 and 314, that is currently in effect or in a
16 period of provisional application and addresses the elimination,
17 under specified conditions, of collateral requirements as a
18 condition for entering into any reinsurance agreement with a
19 ceding insurer domiciled in this state or for allowing the ceding
20 insurer to recognize credit for reinsurance;

21 (ii) A United States jurisdiction that meets the
22 requirements for accreditation under the NAIC financial standards
23 and accreditation program; or

24 (iii) A qualified jurisdiction, as determined by the
25 director under paragraph (d) of subdivision (5) of this
26 subsection, that is not otherwise described in item (i) or (ii)
27 of this subparagraph and that meets certain additional

1 requirements, consistent with the terms and conditions of in-
2 force covered agreements, as specified by the director by rule.

3 b. The assuming insurer shall have and maintain, on an
4 ongoing basis, minimum capital and surplus, or its equivalent,
5 calculated according to the methodology of its domiciliary
6 jurisdiction, in an amount to be set forth by rule. If the
7 assuming insurer is an association, including incorporated and
8 individual unincorporated underwriters, it shall have and
9 maintain, on an ongoing basis, minimum capital and surplus
10 equivalents (net of liabilities) calculated according to the
11 methodology applicable to its domiciliary jurisdiction, and a
12 central fund containing a balance in amounts to be set forth by
13 rule.

14 c. The assuming insurer shall have and maintain, on an
15 ongoing basis, a minimum solvency or capital ratio, as
16 applicable, which shall be set forth by rule. If the assuming
17 insurer is an association, including incorporated and individual
18 unincorporated underwriters, it shall have and maintain, on an
19 ongoing basis, a minimum solvency or capital ratio in the
20 reciprocal jurisdiction where the assuming insurer has its head
21 office or is domiciled, as applicable, and is also licensed.

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

25 (i) The assuming insurer shall provide prompt written
26 notice and explanation to the director if it falls below the
27 minimum requirements set forth in subparagraph b. or c. of this

1 paragraph, or if any regulatory action is taken against it for
2 serious noncompliance with applicable law;

3 (ii) The assuming insurer shall consent in writing to the
4 jurisdiction of the courts of this state and to the appointment
5 of the director as agent for service of process. The director
6 may require that consent for service of process be provided to
7 the director and included in each reinsurance agreement. Nothing
8 in this provision shall limit, or in any way alter, the capacity
9 of parties to a reinsurance agreement to agree to alternative
10 dispute resolution mechanisms, except to the extent such
11 agreements are unenforceable under applicable insolvency or
12 delinquency laws;

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

17 (iv) Each reinsurance agreement shall include a provision
18 requiring the assuming insurer to provide security in an amount
19 equal to one hundred percent of the assuming insurer's
20 liabilities attributable to reinsurance ceded pursuant to that
21 agreement if the assuming insurer resists enforcement of a final
22 judgment that is enforceable under the law of the jurisdiction in
23 which it was obtained or a properly enforceable arbitration
24 award, whether obtained by the ceding insurer or by its legal
25 successor on behalf of its resolution estate; and

26 (v) The assuming insurer shall confirm that it is not
27 presently participating in any solvent scheme of arrangement that

1 involves this state's ceding insurers, and agree to notify the
2 ceding insurer and the director and to provide security in an
3 amount equal to one hundred percent of the assuming insurer's
4 liabilities to the ceding insurer, if the assuming insurer enters
5 into such a solvent scheme of arrangement. Such security shall
6 be in a form consistent with the provisions of subdivision (5) of
7 this subsection, subsection 2 of this section, and as specified
8 by the director by rule.

9 e. The assuming insurer or its legal successor shall
10 provide, if requested by the director, on behalf of itself and
11 any legal predecessors, certain documentation to the director, as
12 specified by the director by rule.

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

16 g. The assuming insurer's supervisory authority shall
17 confirm to the director on an annual basis, as of the preceding
18 December thirty-first or at the annual date otherwise statutorily
19 reported to the reciprocal jurisdiction that the assuming insurer
20 complies with the requirements set forth in subparagraphs b. and
21 c. of this paragraph.

22 h. Nothing in this subdivision precludes an assuming
23 insurer from providing the director with information on a
24 voluntary basis.

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

27 a. A list of reciprocal jurisdictions is published through

1 the NAIC committee process. The director's list shall include
2 any reciprocal jurisdiction as defined under items (i) and (ii)
3 of subparagraph a. of paragraph (a) of this subdivision, and
4 shall consider any other reciprocal jurisdiction included on the
5 NAIC list. The director may approve a jurisdiction that does not
6 appear on the NAIC list of reciprocal jurisdictions in accordance
7 with criteria to be developed under rules promulgated by the
8 director.

9 b. The director may remove a jurisdiction from the list of
10 reciprocal jurisdictions upon a determination that the
11 jurisdiction no longer meets the requirements of a reciprocal
12 jurisdiction, in accordance with a process set forth by rule
13 promulgated by the director, except that the director shall not
14 remove from the list a reciprocal jurisdiction as defined under
15 items (i) and (ii) of subparagraph a. of paragraph (a) of this
16 subdivision. Upon removal of a reciprocal jurisdiction from this
17 list, credit for reinsurance ceded to an assuming insurer that
18 has its home office or is domiciled in that jurisdiction shall be
19 allowed, if otherwise allowed under this section.

20 (c) The director shall timely create and publish a list of
21 assuming insurers that have satisfied the conditions set forth in
22 this subdivision and to which cessions shall be granted credit in
23 accordance with this subdivision. The director may add an
24 assuming insurer to such list if an NAIC accredited jurisdiction
25 has added such assuming insurer to a list of such assuming
26 insurers or if, upon initial eligibility, the assuming insurer
27 submits the information to the director as required under

1 subparagraph d. of paragraph (a) of this subdivision and complies
2 with any additional requirements that the director may adopt by
3 rule, except to the extent that they conflict with an applicable
4 covered agreement.

5 (d) If the director determines that an assuming insurer no
6 longer meets one or more of the requirements under this
7 subdivision, the director may revoke or suspend the eligibility
8 of the assuming insurer for recognition under this subdivision in
9 accordance with procedures set forth by rule.

10 a. While an assuming insurer's eligibility is suspended, no
11 reinsurance agreement issued, amended, or renewed after the
12 effective date of the suspension qualifies for credit except to
13 the extent that the assuming insurer's obligations under the
14 contract are secured in accordance with subsection 2 of this
15 section.

16 b. If an assuming insurer's eligibility is revoked, no
17 credit for reinsurance may be granted after the effective date of
18 the revocation with respect to any reinsurance agreements entered
19 into by the assuming insurer, including reinsurance agreements
20 entered into prior to the date of revocation, except to the
21 extent that the assuming insurer's obligations under the contract
22 are secured in a form acceptable to the director and consistent
23 with the provisions of subsection 2 of this section.

24 (e) If subject to a legal process of rehabilitation,
25 liquidation, or conservation, as applicable, the ceding insurer
26 or its representative may seek and, if determined appropriate by
27 the court in which the proceedings are pending, may obtain an

1 order requiring that the assuming insurer post security for all
2 outstanding ceded liabilities.

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

8 (g) Credit may be taken under this subdivision only for
9 reinsurance agreements entered into, amended, or renewed after
10 December 31, 2020, and only with respect to losses incurred and
11 reserves reported after the later of: the date on which the
12 assuming insurer has met all eligibility requirements under
13 paragraph (a) of this subdivision; or the effective date of the
14 new reinsurance agreement, amendment, or renewal.

15 a. This paragraph shall not alter or impair a ceding
16 insurer's right to take credit for reinsurance, to the extent
17 that credit is not available under this subdivision, as long as
18 the reinsurance qualifies for credit under any other applicable
19 provision of this section.

20 b. Nothing in this subdivision shall authorize an assuming
21 insurer to withdraw or reduce the security provided under any
22 reinsurance agreement except as permitted by the terms of the
23 agreement.

24 c. Nothing in this subdivision shall limit, or in any way
25 alter, the capacity of parties to any reinsurance agreement to
26 renegotiate the agreement.

27 (7) Credit:

1 (a) Shall be allowed when the reinsurance is ceded to an
2 assuming insurer not meeting the requirements of subdivision (1),
3 (2), (3), (4), ~~or~~ (5), or (6) of this subsection, but only as
4 to the insurance of risks located in a jurisdiction of the United
5 States where the reinsurance is required by applicable law or
6 regulation of that jurisdiction;

7 (b) May be allowed in the discretion of the director when
8 the reinsurance is ceded to an assuming insurer not meeting the
9 requirements of subdivision (1), (2), (3), (4), ~~or~~ (5), or (6)
10 of this subsection, but only as to the insurance of risks located
11 in a foreign country where the reinsurance is required by
12 applicable law or regulation of that country;

13 ~~(7)~~ (8) If the assuming insurer is not licensed,
14 accredited, or certified to transact insurance or reinsurance in
15 this state, the credit permitted by subdivisions (3) and (4) of
16 this subsection shall not be allowed unless the assuming insurer
17 agrees in the reinsurance agreements:

18 (a) That in the event of the failure of the assuming
19 insurer to perform its obligations under the terms of the
20 reinsurance agreement, the assuming insurer, at the request of
21 the ceding insurer shall submit to the jurisdiction of the courts
22 of this state, will comply with all requirements necessary to
23 give such courts jurisdiction, and will abide by the final
24 decisions of such courts or of any appellate courts in this state
25 in the event of an appeal; and

26 (b) To designate the director or a designated attorney as
27 its true and lawful attorney upon whom may be served any lawful

1 process in any action, suit or proceeding instituted by or on
2 behalf of the ceding insurer. This paragraph is not intended to
3 conflict with or override the obligation of the parties to a
4 reinsurance agreement to arbitrate their disputes, if this
5 obligation is created in the agreement and the jurisdiction and
6 situs of the arbitration is, with respect to any receivership of
7 the ceding company, any jurisdiction of the United States;

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

13 (a) Notwithstanding any other provisions in the trust
14 instrument, if the trust fund is inadequate because it contains
15 an amount less than the amount required by paragraph (e) of
16 subdivision (4) of this subsection, or if the grantor of the
17 trust has been declared insolvent or placed into receivership,
18 rehabilitation, liquidation or similar proceedings under the laws
19 of its state or country of domicile, the trustee shall comply
20 with an order of the commissioner or director with regulatory
21 oversight over the trust or with an order of a court of competent
22 jurisdiction directing the trustee to transfer to the
23 commissioner or director with regulatory oversight all of the
24 assets of the trust fund;

25 (b) The assets shall be distributed by and claims shall be
26 filed with and valued by the commissioner or director with
27 regulatory oversight in accordance with the laws of the state in

1 which the trust is domiciled that are applicable to the
2 liquidation of domestic insurance companies;

3 (c) If the commissioner or director with regulatory
4 oversight determines that the assets of the trust fund or any
5 part thereof are not necessary to satisfy the claims of the
6 United States ceding insurers of the grantor of the trust, the
7 assets or part thereof shall be returned by the commissioner or
8 director with regulatory oversight to the trustee for
9 distribution in accordance with the trust agreement; and

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

13 ~~[(9)]~~ (10) (a) If an accredited or certified reinsurer
14 ceases to meet the requirements for accreditation or
15 certification, the director may suspend or revoke the reinsurer's
16 accreditation or certification.

17 (b) The director shall give the reinsurer notice and
18 opportunity for a hearing. The suspension or revocation shall
19 not take effect until after the director's order on hearing,
20 unless:

21 a. The reinsurer waives its right to hearing;

22 b. The director's order is based on regulatory action by
23 the reinsurer's domiciliary jurisdiction or the voluntary
24 surrender or termination of the reinsurer's eligibility to
25 transact insurance or reinsurance business in its domiciliary
26 jurisdiction or in the primary certifying state of the reinsurer
27 under subdivision (5) of this subsection; or

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

4 (c) While a reinsurer's accreditation or certification is
5 suspended, no reinsurance contract issued or renewed after the
6 effective date of the suspension qualifies for credit except to
7 the extent that the reinsurer's obligations under the contract
8 are secured in accordance with subdivision (5) of this subsection
9 or subsection 2 of this section. If a reinsurer's accreditation
10 or certification is revoked, no credit for reinsurance shall be
11 granted after the effective date of the revocation except to the
12 extent that the reinsurer's obligations under the contract are
13 secured in accordance with subdivision (5) of this subsection or
14 subsection 2 of this section.

15 ~~[(10)]~~ (11) (a) A ceding insurer shall take steps to
16 manage its reinsurance recoverables proportionate to its own book
17 of business. A domestic ceding insurer shall notify the director
18 within thirty days after reinsurance recoverables from any single
19 assuming insurer or group of affiliated assuming insurers exceeds
20 fifty percent of the domestic ceding insurer's last reported
21 surplus to policyholders or after it is determined that
22 reinsurance recoverables from any single assuming insurer or
23 group of affiliated assuming insurers is likely to exceed such
24 limit. The notification shall demonstrate that the exposure is
25 safely managed by the domestic ceding insurer.

26 (b) A ceding insurer shall take steps to diversify its
27 reinsurance program. A domestic ceding insurer shall notify the

1 director within thirty days after ceding to any single assuming
2 insurer or group of affiliated assuming insurers more than twenty
3 percent of the ceding insurer's gross written premium in the
4 prior calendar year or after it has determined that the
5 reinsurance ceded to any single assuming insurer or group of
6 affiliated assuming insurers is likely to exceed such limit. The
7 notification shall demonstrate that the exposure is safely
8 managed by the domestic ceding insurer.

9 2. An asset or reduction from liability for the reinsurance
10 ceded by a domestic insurer to an assuming insurer not meeting
11 the requirements of subsection 1 of this section shall be allowed
12 in an amount not exceeding the liabilities carried by the ceding
13 insurer; provided that, the director may adopt by rule, under
14 subdivision (2) of subsection 4 of this section, specific
15 additional requirements relating to or setting forth the
16 valuation of assets or reserve credits, the amount and forms of
17 security supporting reinsurance arrangements described in
18 subdivision (2) of subsection 4 of this section, or the
19 circumstances under which credit will be reduced or eliminated.

20 The reduction shall be in the amount of funds held by or on
21 behalf of the ceding insurer, including funds held in trust for
22 the ceding insurer, under a reinsurance contract with the
23 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; or, in the case of a trust, held in a qualified
27 United States financial institution, as defined in subdivision

1 (2) of subsection 3 of this section. This security may be in the
2 form of:

3 (1) Cash;

4 (2) Securities listed by the securities valuation office of
5 the National Association of Insurance Commissioners, including
6 those deemed exempt from filing as defined by the Purposes and
7 Procedures Manual of the Securities Valuation Office, and
8 qualifying as admitted assets;

9 (3) (a) Clean, irrevocable, unconditional letters of
10 credit issued or confirmed by a qualified United States financial
11 institution, as defined in subdivision (1) of subsection 3 of
12 this section, no later than December thirty-first of the year for
13 which filing is being made, and in the possession of, or in trust
14 for, the ceding insurer on or before the filing date of its
15 annual statement.

16 (b) Letters of credit meeting applicable standards of
17 issuer acceptability as of the dates of their issuance or
18 confirmation, notwithstanding the issuing or confirming
19 institution's subsequent failure to meet applicable standards of
20 issuer acceptability, shall continue to be acceptable as security
21 until their expiration, extension, renewal, modification or
22 amendment, whichever first occurs;

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

24 3. (1) For purposes of subdivision (3) of subsection 2 of
25 this section, a "qualified United States financial institution"
26 means an institution that:

27 (a) Is organized or, in the case of a United States office

1 of a foreign banking organization, licensed under the laws of the
2 United States or any state thereof;

3 (b) Is regulated, supervised and examined by federal or
4 state authorities having regulatory authority over banks and
5 trust companies; and

6 (c) Has been determined by either the director, or the
7 securities valuation office of the National Association of
8 Insurance Commissioners, to meet such standards of financial
9 condition and standing as are considered necessary and
10 appropriate to regulate the quality of financial institutions
11 whose letters of credit will be acceptable to the director.

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

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

20 (b) Is regulated, supervised and examined by federal or
21 state authorities having regulatory authority over banks and
22 trust companies.

23 4. (1) The director may adopt rules and regulations
24 implementing the provisions of this section.

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

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

3 a. Life insurance policies with guaranteed nonlevel gross
4 premiums or guaranteed nonlevel benefits;

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

8 c. Variable annuities with guaranteed death or living
9 benefits;

10 d. Long-term care insurance policies; or

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

14 (b) A rule adopted under subparagraph a. or b. of paragraph
15 (a) of this subdivision shall apply to any treaty containing
16 policies issued after December 31, 2014, or policies issued prior
17 to January 1, 2015, if risk pertaining to such pre-2015 policies
18 is ceded in connection with the treaty, in whole or in part,
19 after December 31, 2014.

20 (c) A rule adopted under this subdivision shall require the
21 ceding insurer, in calculating the amounts or forms of security
22 required to be held under rules promulgated under this authority,
23 to use the valuation manual adopted in accordance with subsection
24 6 of section 376.380, including all amendments adopted thereto
25 and in effect on the date the calculation is made, to the extent
26 applicable.

27 (d) A regulation adopted under this subdivision shall not

1 apply to cessions to an assuming insurer that:

2 a. Meets the conditions set forth in subdivision (6) of
3 subsection 1 of this section, or if this state has not fully
4 implemented provisions substantially equivalent to subdivision
5 (6) of subsection 1 of this section by rule or otherwise, the
6 assuming insurer is operating in accordance with provisions
7 substantially equivalent to subdivision (6) of subsection 1 of
8 this section in a minimum of five other states;

9 b. Is certified in this state; or

10 c. Maintains at least two hundred fifty million dollars in
11 capital and surplus when determined in accordance with the NAIC
12 Accounting Practices and Procedures Manual, including all
13 amendments thereto adopted by the NAIC, excluding the impact of
14 any permitted or prescribed practices, and is:

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

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

18 (e) The authority to adopt regulations under this
19 subdivision does not limit the director's general authority to
20 adopt regulations under subdivision (1) of this subsection.

21 5. (1) The director shall disallow any credit as an asset
22 or as a deduction from liability for any reinsurance found by him
23 to have been arranged for the purpose principally of deception as
24 to the ceding company's financial condition as of the date of any
25 financial statement of the company. Without limiting the general
26 purport of this provision, reinsurance of any substantial part of
27 the company's outstanding risks contracted for in fact within

1 four months prior to the date of any such financial statement and
2 cancelled in fact within four months after the date of such
3 statement, or reinsurance under which the assuming insurer bears
4 no substantial insurance risk or substantial risk of net loss to
5 itself, shall prima facie be deemed to have been arranged for the
6 purpose principally of deception within the intent of this
7 provision.

8 (2) (a) The director shall also disallow as an asset or
9 deduction from liability to any ceding insurer any credit for
10 reinsurance unless the reinsurance is payable to the ceding
11 company, and if it be insolvent to its receiver, by the assuming
12 insurer on the basis of the liability of the ceding company under
13 the contracts reinsured without diminution because of the
14 insolvency of the ceding company.

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

17 a. Where the contract of insurance or reinsurance
18 specifically provides for payment to the named insured, assignee
19 or named beneficiary of the policy issued by the ceding insurer
20 in the event of the insolvency of the ceding insurer; or

21 b. Where the assuming insurer, with the consent of it and
22 the direct insured or insureds in an assumption reinsurance
23 transaction subject to sections 375.1280 to 375.1295, has assumed
24 such policy obligations of the ceding insurer as direct
25 obligations of the assuming insurer to the payees under such
26 policies and in substitution for the obligations of the ceding
27 insurer to such payees.

1 (c) Notwithstanding paragraphs (a) and (b) of this
2 subdivision, in the event that a life and health insurance
3 guaranty association has made the election to succeed to the
4 rights and obligations of the insolvent insurer under the
5 contract of reinsurance, then the reinsurer's liability to pay
6 covered reinsured claims shall continue under the contract of
7 reinsurance, subject to the payment to the reinsurer of the
8 reinsurance premiums for such coverage. Payment for such
9 reinsured claims shall only be made by the reinsurer pursuant to
10 the direction of the guaranty association or its designated
11 successor. Any payment made at the direction of the guaranty
12 association or its designated successor by the reinsurer will
13 discharge the reinsurer of all further liability to any other
14 party for such claim payment.

15 (d) The reinsurance agreement may provide that the
16 domiciliary liquidator of an insolvent ceding insurer shall give
17 written notice to the assuming insurer of the pendency of a claim
18 against such ceding insurer on the contract reinsured within a
19 reasonable time after such claim is filed in the liquidation
20 proceeding. During the pendency of such claim, any assuming
21 insurer may investigate such claim and interpose, at its own
22 expense, in the proceeding where such claim is to be adjudicated
23 any defenses which it deems available to the ceding insurer, or
24 its liquidator. Such expense may be filed as a claim against the
25 insolvent ceding insurer to the extent of a proportionate share
26 of the benefit which may accrue to the ceding insurer solely as a
27 result of the defense undertaken by the assuming insurer. Where

1 two or more assuming insurers are involved in the same claim and
2 a majority in interest elect to interpose a defense to such
3 claim, the expense shall be apportioned in accordance with the
4 terms of the reinsurance agreement as though such expense had
5 been incurred by the ceding insurer.

6 6. To the extent that any reinsurer of an insurance company
7 in liquidation would have been required under any agreement
8 pertaining to reinsurance to post letters of credit or other
9 security prior to an order of liquidation to cover such reserves
10 reflected upon the last financial statement filed with a
11 regulatory authority immediately prior to receivership, such
12 reinsurer shall be required to post letters of credit or other
13 security to cover reserves after a company has been placed in
14 liquidation or receivership. If a reinsurer shall fail to post
15 letters of credit or other security as required by a reinsurance
16 agreement or the provisions of this subsection, the director may
17 consider disallowing as a credit or asset, in whole or in part,
18 any future reinsurance ceded to such reinsurer by a ceding
19 insurance company that is incorporated under the laws of the
20 state of Missouri.

21 7. The provisions of section 375.420 shall not apply to any
22 action, suit or proceeding by a ceding insurer against an
23 assuming insurer arising out of a contract of reinsurance
24 effectuated in accordance with the laws of Missouri.

25 8. Notwithstanding any other provision of this section, a
26 domestic insurer may take credit for reinsurance ceded either as
27 an asset or a reduction from liability only to the extent such

1 credit is allowed by the consistent application of either
2 applicable statutory accounting principles adopted by the NAIC or
3 other accounting principles approved by the director.

4 9. The director may suspend the accreditation, approval, or
5 certification under subsection 1 of this section of any reinsurer
6 for failure to comply with the applicable requirements of
7 subsection 1 of this section after providing the affected
8 reinsurer with notice and opportunity for hearing.

9 376.782. 1. As used in this section, the term "low-dose
10 mammography screening" means the X-ray examination of the breast
11 using equipment specifically designed and dedicated for
12 mammography, including the X-ray tube, filter, compression
13 device, detector, films, and cassettes, with an average radiation
14 exposure delivery of less than one rad mid-breast, with two views
15 for each breast, and any fee charged by a radiologist or other
16 physician for reading, interpreting or diagnosing based on such
17 X-ray. As used in this section, the term "low-dose mammography
18 screening" shall also include digital mammography and breast
19 tomosynthesis. As used in this section, the term "breast
20 tomosynthesis" shall mean a radiologic procedure that involves
21 the acquisition of projection images over the stationary breast
22 to produce cross-sectional digital three-dimensional images of
23 the breast.

24 2. All individual and group health insurance policies
25 providing coverage on an expense-incurred basis, individual and
26 group service or indemnity type contracts issued by a nonprofit
27 corporation, individual and group service contracts issued by a

1 health maintenance organization, all self-insured group
2 arrangements to the extent not preempted by federal law and all
3 managed health care delivery entities of any type or description,
4 that are delivered, issued for delivery, continued or renewed on
5 or after August 28, 1991, and providing coverage to any resident
6 of this state shall provide benefits or coverage for low-dose
7 mammography screening for any nonsymptomatic woman covered under
8 such policy or contract which meets the minimum requirements of
9 this section. Such benefits or coverage shall include at least
10 the following:

11 (1) A baseline mammogram for women age thirty-five to
12 thirty-nine, inclusive;

13 (2) A mammogram every year for women age forty and over;

14 (3) A mammogram every year for any woman [~~upon the~~
15 ~~recommendation of a physician, where such woman, her mother or~~
16 ~~her sister has a prior history of breast cancer] deemed by a
17 treating physician to have an above-average risk for breast
18 cancer in accordance with the American College of Radiology
19 guidelines for breast cancer screening;~~

20 (4) Any additional or supplemental imaging, such as breast
21 magnetic resonance imaging or ultrasound, deemed medically
22 necessary by a treating physician for proper breast cancer
23 screening or evaluation in accordance with applicable American
24 College of Radiology guidelines; and

25 (5) Ultrasound or magnetic resonance imaging services, if
26 determined by a treating physician to be medically necessary for
27 the screening or evaluation of breast cancer for any woman deemed

1 by the treating physician to have an above-average risk for
2 breast cancer in accordance with American College of Radiology
3 guidelines for breast cancer screening.

4 3. Coverage and benefits [~~related to mammography as~~]
5 required [~~by~~] under this section shall be at least as favorable
6 and subject to the same dollar limits, deductibles, and
7 co-payments as other radiological examinations; provided,
8 however, that on and after January 1, 2019, providers of
9 [~~low-dose mammography screening~~] health care services specified
10 under this section shall be reimbursed at rates accurately
11 reflecting the resource costs specific to each modality,
12 including any increased resource cost [~~of breast tomosynthesis~~].

13 376.1590. 1. As used in this section, the term "insurance
14 policy" means a policy or other contract of life insurance as
15 such term is defined in section 376.365, a policy of accident and
16 sickness insurance as such term is defined in section 376.773, or
17 a long-term care insurance policy as such term is defined in
18 section 376.1100.

19 2. Notwithstanding any provision of law to the contrary, a
20 person's status as a living organ donor shall not be the sole
21 factor in the offering, issuance, cancellation, price, or
22 conditions of an insurance policy, nor in the amount of coverage
23 provided under an insurance policy.

24 3. (1) The department of commerce and insurance shall
25 provide information to the public on the access of a living organ
26 donor to insurance as specified in this section. If the
27 department of commerce and insurance receives materials related

1 to live organ donation from a recognized live organ donation
2 organization, the department of commerce and insurance may make
3 the materials available to the public.

4 (2) If the department of health and senior services
5 receives materials related to live organ donation from a
6 recognized live organ donation organization, the department of
7 health and senior services may make the materials available to
8 the public.

9 (3) The department of commerce and insurance and the
10 department of health and senior services may seek and accept
11 gifts, grants, or donations from private or public sources for
12 the purposes of this subsection.

13 4. The director of the department of commerce and insurance
14 may promulgate rules as necessary for the implementation of this
15 section. Any rule or portion of a rule, as that term is defined
16 in section 536.010, that is created under the authority delegated
17 in this section shall become effective only if it complies with
18 and is subject to all of the provisions of chapter 536 and, if
19 applicable, section 536.028. This section and chapter 536 are
20 nonseverable, and if any of the powers vested with the general
21 assembly pursuant to chapter 536 to review, to delay the
22 effective date, or to disapprove and annul a rule are
23 subsequently held unconstitutional, then the grant of rulemaking
24 authority and any rule proposed or adopted after August 28, 2020,
25 shall be invalid and void.

26 379.402. 1. A producer or insurer, by or through its
27 employees, affiliates, or authorized third parties, may offer or

1 provide products or services in conjunction with a policy of
2 property and casualty insurance for free, at a discount, or at
3 market value, if such products or services are intended to:

4 (1) Prevent or mitigate loss to persons or property;

5 (2) Provide loss control;

6 (3) Reduce rates or claims;

7 (4) Educate about risk of loss to persons or property;

8 (5) Monitor or assess risk, identify sources of risk, or
9 develop strategies for eliminating or reducing risks; or

10 (6) Provide post-loss services.

11 2. A producer or insurer may offer or provide gifts, goods,
12 or merchandise that contain advertising or promotion of the
13 producer or insurer to policyholders, prospective policyholders,
14 or members of the public.

15 3. A product or service offered or provided as described
16 under subsection 1 or 2 of this section shall not be considered
17 an inducement to insurance, a rebate, or any other impermissible
18 consideration as those terms are used in section 379.356 and
19 subdivision (9) of section 375.936. The offer or provision of
20 products or services described in subsection 1 or 2 of this
21 section shall not be required in the contract or policy form
22 filings.

23 4. The director may promulgate rules to exempt, but not
24 restrict, additional categories of products or services under
25 this section with regard to the provisions of section 379.356 and
26 subdivision (9) of section 375.936 that prohibit insurers,
27 employees of an insurer, affiliates, insurance producers, or

1 other third parties from giving rebates, discounts, gifts, or
2 other valuable consideration as an inducement to insurance. Any
3 rule or portion of a rule, as that term is defined in section
4 536.010, that is created under the authority delegated in this
5 section shall become effective only if it complies with and is
6 subject to all of the provisions of chapter 536 and, if
7 applicable, section 536.028. This section and chapter 536 are
8 nonseverable, and if any of the powers vested with the general
9 assembly pursuant to chapter 536 to review, to delay the
10 effective date, or to disapprove and annul a rule are
11 subsequently held unconstitutional, then the grant of rulemaking
12 authority and any rule proposed or adopted after August 28, 2020,
13 shall be invalid and void.

14 379.404. The provisions of section 379.356 and subdivision
15 (9) of section 375.936 that prohibit a producer or insurer from
16 giving rebates, discounts, gifts, or other valuable consideration
17 as an inducement to insurance shall not apply to commercial
18 property and casualty insurance. The exclusion provided under
19 this section shall not apply to producer commission reductions
20 not included in insurance company rate filings.

21 379.860. 1. This program shall be administered by a
22 governing committee (hereinafter referred to as "the committee")
23 of the facility, subject to the supervision of the director, and
24 operated by a manager appointed by the committee.

25 2. The committee shall consist of thirteen members:

26 (1) Ten members shall be elected [~~from the following:~~

1 ~~American Insurance Association, two;~~

2

3 ~~Property Casualty Insurers Association of America, two;~~

4

5 ~~National Association of Mutual Insurance Companies, one;~~

6

7 ~~Missouri Insurance Coalition, one;~~

8

9 ~~All other stock insurers, two;~~

10

11 ~~All other nonstock insurers, two]~~ as prescribed in the plan
12 of operation;

13

(2) Three members shall be appointed by the director from
14 each of the following:

15

16 Missouri insurer, one;

17

18 Licensed agent of an insurer, two.

19

20 Not more than one insurer in a group under the same management or
21 ownership shall serve on the committee at the same time.

22

3. In case of a vacancy on the governing committee the
23 director shall appoint a representative to such vacancy pending
24 the designation or election as provided in the program.

25

4. There shall be no liability imposed on the part of and
26 no cause of action of any nature shall arise against any member
27 insurer or any member of the governing committee for any omission

1 or action taken in the performance of their powers and duties
2 under sections 379.810 to 379.880.

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

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

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

26 (b) The premium for the policy shall be paid either from
27 the employer's funds, from funds contributed by the insured

1 employees, or from both. A policy on which no part of the
2 premium is to be derived from funds contributed by the insured
3 employees shall insure all eligible employees, except those who
4 reject such coverage in writing;

5 (2) A policy issued to a labor union or similar employee
6 organization, which shall be deemed to be the policyholder, to
7 insure members of the union or organization for the benefit of
8 persons other than the union or organization or any of its
9 officials, representatives, or agents, subject to the following
10 requirements:

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

14 (b) The premium for the policy shall be paid either from
15 the funds of the union or organization, from funds contributed by
16 the insured members specifically for their insurance, or from
17 both. A policy on which no part of the premium is to be derived
18 from funds contributed by the insured members specifically for
19 their insurance shall insure all eligible members, except those
20 who reject such coverage in writing;

21 (3) A policy issued to a trust, or to the trustees of a
22 fund, established or adopted by two or more employers, or by one
23 or more labor unions or similar employee organizations, or by one
24 or more employers and one or more labor unions or similar
25 employee organizations, which trust or trustees shall be deemed
26 the policyholder, to insure employees of the employers or members
27 of the unions or organizations for the benefit of persons other

1 than the employers or the unions or organizations, subject to the
2 following requirements:

3 (a) The persons eligible for insurance shall be all of the
4 employees of the employers, all of the members of the unions or
5 organizations, or all of any class or classes thereof. The
6 policy may provide that the term "employees" shall include the
7 employees of one or more subsidiary corporations and the
8 employees, individual proprietors, and partners of one or more
9 affiliated corporations, proprietorships, or partnerships is
10 under common control. The policy may provide that the term
11 "employees" shall include the individual proprietor or partners
12 if the employer is an individual proprietorship or partnership.
13 The policy may provide that the term "employees" shall include
14 directors of a corporate employer and retired employees. The
15 policy may provide that the term "employees" shall include the
16 trustees or their employees, or both, if their duties are
17 principally connected with such trusteeship;

18 (b) The premium for the policy shall be paid from funds
19 contributed by the employer or employers of the insured persons,
20 by the union or unions or similar employee organizations, or by
21 both, or from funds contributed by the insured persons or from
22 both the insured persons and the employers or unions or similar
23 employee organizations. A policy on which no part of the premium
24 is to be derived from funds contributed by the insured persons
25 specifically for their insurance shall insure all eligible
26 persons, except those who reject such coverage in writing;

27 (4) A policy issued to an association or to a trust or to

1 the trustees of a fund established, created, or maintained for
2 the benefit of members of one or more associations. The
3 association or associations shall have at the outset a minimum of
4 one hundred persons, shall have been organized and maintained in
5 good faith for purposes other than that of obtaining insurance,
6 shall have been in active existence for at least one year, and
7 shall have a constitution and bylaws which providing that the
8 association or associations hold regular meetings no less than
9 annually to further purposes of the members, that the association
10 or associations collect dues or solicit contributions from
11 members, and that the members have voting privileges and
12 representation on the governing board and committees. The policy
13 shall be subject to the following requirements:

14 (a) The policy may insure members of the association or
15 associations, employees thereof or employees of members, or one
16 or more of the preceding or all of any class or classes thereof
17 for the benefit of persons other than the employees' employer;

18 (b) The premium for the policy shall be paid from funds
19 contributed by the association or associations, by employer
20 members, or by both, or from funds contributed by the insured
21 persons or from both the insured persons and the association,
22 associations, or employer members. A policy on which no part of
23 the premium is to be derived from funds contributed by the
24 insured persons specifically for their insurance shall insure all
25 eligible persons, except those who reject such coverage in
26 writing;

27 (c) If compensation of any kind will or may be paid to the

1 policyholder in connection with the group policy, the insurer
2 shall cause to be distributed to prospective insureds a written
3 notice that compensation will or may be paid. Such notice shall
4 be distributed whether such compensation is direct or indirect,
5 and whether such compensation is paid to or retained by the
6 policyholder, or paid to or retained by a third party at the
7 direction of the policyholder or any entity affiliated with the
8 policyholder by ownership, contract, or employment. The notice
9 required by this subsection shall be placed on or accompany any
10 document designed for the enrollment of prospective insureds;

11 (5) The definition of an eligible employee or member may
12 include the spouse of the eligible employee or member;

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

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

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

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

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

27 (2) A group personal lines property and casualty insurance

1 coverage shall not be offered in this state by an insurer under a
2 policy issued or delivered in another state unless this state or
3 another state having requirements substantially similar to those
4 contained in subdivision (1) of subsection 2 of this section has
5 made a determination that the requirements have been met;

6 (3) The premium for a group personal lines property and
7 casualty policy shall be paid either from the policyholder's
8 funds, from funds contributed by the covered persons, or from
9 both;

10 (4) If compensation of any kind will or may be paid to the
11 policyholder in connection with the group policy, the insurer
12 shall cause to be distributed to prospective insureds a written
13 notice that compensation will or may be paid. Notice shall be
14 distributed whether compensation is direct or indirect, and
15 whether such compensation is paid to or retained by the
16 policyholder or paid to or retained by a third party at the
17 direction of the policyholder or any entity affiliated with the
18 policyholder by ownership, contract, or employment. The notice
19 required by this subdivision shall be placed on or accompany any
20 document designed for the enrollment of prospective insureds.

21 379.1802. 1. A master policy shall be issued to the
22 policyholder. Eligible employees or members insured under the
23 master policy shall receive certificates of coverage setting
24 forth a statement as to the insurance protection to which they
25 are entitled.

26 2. A master policy or certificate of insurance shall not be
27 issued or delivered in this state unless the master policy form,

1 together with all forms for riders, certificates, and
2 endorsements to the master policy form, shall have met the
3 applicable filing requirements in this state. Subsequent
4 amendments to the master policy form shall not be issued or
5 delivered until they have met the applicable filing requirements
6 in this state.

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

12 (1) Methods of premium collection;

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

15 (3) Termination of the master policy; and

16 (4) Conversation privileges of the employees or members.

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

22 379.1804. 1. The master policy shall provide a basic
23 package of coverages and limits that are available to all
24 eligible employees or members. The package shall include at
25 least the minimum coverages and limits of insurance as required
26 by law in that employee's or member's state of residence or in
27 the state where the subject property is located, if applicable.

1 In addition, the master policy may provide additional coverages
2 or limits to be available at an increased premium to employees or
3 members who qualify under the terms of the master policy.

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

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

13 4. Coverage under the master policy may be terminated as to
14 an employee or member only for:

15 (1) Failure of the employee or member to make required
16 premium contributions;

17 (2) Termination of the master policy in its entirety or as
18 to the class to which the employee or member belongs;

19 (3) Discontinuance of the employee's or member's membership
20 in a class eligible for coverage; or

21 (4) Termination of employment or membership.

22 5. If optional coverages or limits are available by law in
23 an employee's or member's state of residence, the policyholder's
24 acceptance or rejection of the optional coverages or limits on
25 behalf of the group shall be binding on the employees or members.

26 If the policyholder rejects any coverages or limits that are
27 required by law to be provided unless rejected by the named

1 insured, notice of the rejection shall be given to the employees
2 or members at or before the time their certificates of coverage
3 are delivered.

4 6. Stacking of coverages or limits among separate
5 certificates of insurance is prohibited under a master policy of
6 group personal lines property and casualty insurance; except
7 that, if separate certificates under the same master policy are
8 issued to relatives living in the same household, the state law
9 pertaining to stacking of individual policies shall apply to
10 those certificates.

11 379.1806. 1. No master policy or certificate of insurance
12 shall be issued or delivered in this state unless the rating plan
13 and amendments thereto used in the determination of the master
14 policy premium meet the applicable filing requirements in this
15 state.

16 2. Group insurance premium rates shall not be unfairly
17 discriminatory if adjusted to reflect past and prospective loss
18 experience or group expense factors, or if averaged broadly among
19 persons insured under the master policy. Such rates shall not be
20 deemed to be unfairly discriminatory if they do not reflect
21 individual rating factors including surcharges and discounts
22 required for individual personal lines property and casualty
23 insurance policies.

24 3. Experience refunds or dividends may be paid to the
25 policyholder of a group personal lines property and casualty
26 insurance policy if the insurer's experience under that policy
27 justifies experience refunds or dividends. However, if an

1 experience refund or dividend is declared, it shall be applied by
2 the policyholder for the sole benefit of the insured employees or
3 members to the extent that the experience refund or dividend
4 exceeds the policyholder's contribution to premium for the period
5 covered by such experience refund or dividend.

6 379.1808. 1. An insurer issuing or delivering group
7 personal lines property and casualty insurance shall maintain
8 separate statistics as to the loss and expense experience
9 pertinent thereto.

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

16 3. (1) No insurer shall issue or deliver a group personal
17 lines property and casualty insurance policy if:

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

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

25 (2) The provision under paragraph (b) of subdivision (1) of
26 subsection 3 of this section shall not be deemed to prohibit the
27 reasonable requirement of safety devices, such as heat detectors,

1 lightning rods, theft prevention equipment, and similar devices.

2 The provision under paragraph (b) of subdivision (1) of
3 subsection 3 of this section shall not be deemed to prohibit the
4 marketing of "package" or "combination" policies;

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

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

16 379.1810. 1. A person shall not act in this state as an
17 insurance agent or broker in connection with the solicitation,
18 negotiation, or sale of a group personal lines property and
19 casualty insurance policy unless the person is duly licensed in
20 this state as an agent or broker for the applicable lines of
21 insurance. However, the following activities engaged in by the
22 insurer or its employees, or the policyholder or its employees,
23 shall not require the licensing of such entities or persons as
24 insurance agents or brokers:

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

27 (2) Distribution to employees or members, by mail or

1 otherwise, of information pertaining to the master policy;

2 (3) Collection of contributions toward premiums through
3 payroll deductions or other appropriate means, and remittance of
4 the premium to an insurer; and

5 (4) Receipt of reimbursement from an insurer for actual,
6 reasonable expenses incurred for administrative services that
7 would otherwise be performed by the insurer with respect to the
8 master policy. However, nothing herein shall supersede any
9 applicable law or regulation that prohibits or regulates
10 splitting of commissions with unlicensed persons, rebating
11 commissions, or premiums.

12 2. No countersignature requirements shall apply to a group
13 personal lines property and casualty insurance policy that is
14 issued or delivered in this state under the provisions of
15 sections 379.1800 to 379.1816.

16 379.1812. 1. Each employee or member covered under the
17 master policy whose coverage thereunder shall terminate for any
18 reason other than the failure to make required contributions
19 toward premiums or at the request of the employee or member shall
20 receive from the insurer thirty days prior written notice of
21 termination or ineligibility. The notice shall state the reasons
22 for discontinuance of coverage under the master policy and shall
23 explain the employee's or member's options for conversion to an
24 individual policy.

25 2. If, within thirty days after receipt of notice of
26 termination or ineligibility, application is made and the first
27 premium is paid to the insurer, the employee or member shall be

1 entitled to have issued to him or her by the insurer, or an
2 affiliate within the same group of insurers, an individual
3 policy, effective upon termination or ineligibility, with
4 coverages and limits at least equal to the minimum coverages and
5 limits of insurance as required by the applicable state law.

6 3. No individual notice of termination as provided under
7 subsection 1 of this section and no conversion privilege as
8 provided under subsection 2 of this section shall be required if
9 the master policy is replaced by another master policy within
10 thirty days. Coverage under the prior master policy shall
11 terminate when the replacement master policy becomes effective.

12 379.1814. 1. No master policy or certificate of insurance
13 shall be issued or delivered in this state unless issued or
14 delivered by an insurer that is duly licensed in this state to
15 write the lines of insurance covered by the master policy or is
16 an eligible nonadmitted insurer pursuant to section 384.021.

17 2. The provisions of sections 379.1800 to 379.1816 shall
18 not apply to the mass marketing or any other type of marketing of
19 individual personal lines property and casualty insurance
20 policies.

21 3. Sections 379.1800 to 379.1816 shall not apply to
22 policies of credit property or credit casualty insurance that
23 insure the debtors of a creditor or creditors with respect to
24 their indebtedness.

25 4. Sections 379.1800 to 379.1816 shall not apply to
26 policies of personal automobile insurance or personal motor
27 vehicle liability insurance, nor shall such sections be construed

1 as authorizing the sale or issuance of personal automobile
2 insurance or personal motor vehicle liability insurance under a
3 group or master policy within this state.

4 5. Nothing in sections 379.1800 to 379.1816 shall limit the
5 authority of the director with respect to complaints or disputes
6 involving residents of this state arising out of a master policy
7 that has been issued or delivered in another state.

8 6. The director may promulgate all necessary rules and
9 regulations for the administration of sections 379.1800 to
10 379.1816. Any rule or portion of a rule, as that term is defined
11 in section 536.010, that is created under the authority delegated
12 in this section shall become effective only if it complies with
13 and is subject to all of the provisions of chapter 536 and, if
14 applicable, section 536.028. This section and chapter 536 are
15 nonseverable, and if any of the powers vested with the general
16 assembly pursuant to chapter 536 to review, to delay the
17 effective date, or to disapprove and annul a rule are
18 subsequently held unconstitutional, then the grant of rulemaking
19 authority and any rule proposed or adopted after August 28, 2020,
20 shall be invalid and void.

21 379.1816. The enactment of sections 379.1800 to 379.1816
22 shall become effective January 1, 2021. No master policy or
23 certificate of insurance shall be issued or delivered in this
24 state after the effective date unless issued or delivered in
25 compliance with sections 379.1800 to 379.1816. A master policy
26 or certificate that is lawfully in effect on January 1, 2021,
27 shall comply with the provisions of sections 379.1800 to 379.1816

1 within twelve months of such date.

2 383.155. 1. A joint underwriting association may be
3 created upon determination by the director after a public hearing
4 that medical malpractice liability insurance is not reasonably
5 available for health care providers in the voluntary market. The
6 association shall contain as members all companies authorized to
7 write and engaged in writing, on a direct basis, any insurance or
8 benefit, the premium for which is included under the definition
9 of "net direct premiums". Membership in the association shall be
10 a condition of continued authority to do business in this state.

11 2. A plan of operation shall be adopted to be effective
12 concurrently with the effective date of the association.

13 3. The association shall, pursuant to the provisions of
14 sections 383.150 to 383.195 and the plan of operation, with
15 respect to medical malpractice insurance, have the authority on
16 behalf of its members:

17 (1) To issue, or to cause to be issued, policies of
18 insurance to applicants, including incidental coverages and
19 subject to limits as specified in the plan of operation but not
20 to exceed one million dollars for each claimant under one policy
21 and three million dollars for all claimants under one policy in
22 any one policy year;

23 (2) To underwrite such insurance and to adjust and pay
24 losses with respect thereto, or to appoint a service company to
25 perform those functions;

26 (3) To assume reinsurance from its members; and

27 (4) To cede reinsurance.

1 4. Within forty-five days following the creation of the
2 association, the directors of the association shall submit to the
3 director for his or her review, a proposed plan of operation,
4 consistent with the provisions of sections 383.150 to 383.195.

5 5. The plan of operation shall provide for economic, fair
6 and nondiscriminatory administration and for the prompt and
7 efficient distribution of medical malpractice insurance, and
8 shall contain other provisions including, but not limited to,
9 preliminary assessment of all members for initial expenses to
10 commence operations, establishment of necessary facilities,
11 management of the association, assessment of members to defray
12 losses and expenses, reasonable and objective underwriting
13 standards, acceptance and cession of reinsurance, appointment of
14 a servicing company and procedures for determining amounts of
15 insurance to be provided by the association. The preliminary
16 assessment shall be an advance to be recouped under the
17 provisions of subsection 5 of section 383.160.

18 6. The composition of the board and the terms of directors
19 of the board shall be established by the plan of operation.

20 7. The plan of operation shall be subject to approval by
21 the director after consultation with the members of the
22 association, representatives of the public and other affected
23 individuals and organizations. If the director disapproves all
24 or any part of the proposed plan of operation, the directors
25 shall within fifteen days submit for review a revised plan of
26 operation. If the directors fail to do so, the director shall
27 promulgate a plan of operation or part thereof, as the case may

1 be. The plan of operation approved or promulgated by the
2 director shall become effective and operational upon his or her
3 order.

4 ~~[7-]~~ 8. Amendments to the plan of operation may be made by
5 the directors of the association, subject to the approval of the
6 director or shall be made at his direction.

7 9. There shall be no liability imposed on the part of and
8 no cause of action of any nature shall arise against any member
9 insurer or any member of the board of directors for any omission
10 or action taken by them in the performance of their powers and
11 duties under sections 383.150 to 383.195.

12 383.160. 1. All association policies of insurance shall be
13 written ~~[so as to apply to injury which results from acts or~~
14 ~~omissions occurring during the policy period]~~ to provide medical
15 malpractice insurance coverage as prescribed by the plan of
16 operation. No policy form shall be used by the association
17 unless it has been filed with the director and approved or thirty
18 days have elapsed and he has not delivered to the board written
19 disapproval of it as misleading or not in the public interest.
20 The director shall have the power to disapprove any policy form
21 previously approved if found by him after hearing to be
22 misleading or not in the public interest.

23 2. Cancellation of the association's policies shall be
24 governed by law.

25 3. The rates, rating plans, rating rules, rating
26 classifications and territories applicable to the insurance
27 written by the association and statistics relating thereto shall

1 be subject to the casualty rate regulation law giving due
2 consideration to the past and prospective loss and expense
3 experience in medical malpractice insurance of all of the
4 insurers, trends in the frequency and severity of losses, the
5 investment income of the association, and such other information
6 as the director may require. All rates shall be actuarially
7 sound and shall be calculated to be self-supporting.

8 4. In the event sufficient funds are not available for the
9 sound financial operation of the association, additional funds
10 shall be raised by making an assessment on all member companies.
11 Assessments shall be made against members in the proportion that
12 the net direct premiums for the preceding calendar year of each
13 member for each line of insurance requiring it to participate in
14 said plan bear to the net direct premiums for the preceding
15 calendar year of all members for such line of insurance; provided
16 that, assessments made pursuant to sections 383.150 to 383.195
17 shall not exceed in any calendar year one percent of each
18 member's net direct premiums attributable to the line or lines of
19 insurance the writing of which requires it to be a member.

20 5. All members shall deduct the amount of any assessment
21 from past or future premium taxes due but not yet paid the state.

22 6. Any funds which result from policyholder premiums and
23 other revenues received in excess of those funds required for
24 reserves, loss payments and expenses incurred and accrued at the
25 end of any calendar year shall be paid proportionately to the
26 general fund to the extent that credit against premium tax
27 liability has been granted pursuant to subsection 5 and to

1 members which have been assessed but have not received tax
2 credits as provided in subsection 5.

3 383.175. The association shall be governed by a board of
4 eight directors, to be appointed by the director for the terms
5 specified in the plan of operation. ~~Two directors shall~~
6 ~~represent insurers which write bodily injury insurance in~~
7 ~~Missouri and are members of the Property Casualty Insurers~~
8 ~~Association of America, two shall represent insurers which write~~
9 ~~bodily injury insurance in Missouri and are members of the~~
10 ~~Missouri Insurance Coalition, two shall represent insurers which~~
11 ~~write bodily injury insurance in Missouri and are members of the~~
12 ~~American Insurance Association, and two shall represent insurers~~
13 ~~which write bodily injury insurance in Missouri but are not~~
14 ~~members of any of the foregoing trade associations] The
15 composition of the board of directors shall be established by the
16 plan of operation. The directors shall be reimbursed out of the
17 administrative funds of the association only for necessary and
18 actual expenses incurred for attending meetings of the governing
19 board.~~