

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 551**  
**100TH GENERAL ASSEMBLY**

3729H.02C

DANA RADEMAN MILLER, Chief Clerk

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**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.

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*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  
2 383.175, RSMo, are repealed and twenty-one new sections enacted in lieu thereof, to be known  
3 as sections 194.320, 303.200, 375.029, 375.246, 376.782, 376.1590, 379.402, 379.404, 379.860,  
4 379.1800, 379.1802, 379.1804, 379.1806, 379.1808, 379.1810, 379.1812, 379.1814, 379.1816,  
5 383.155, 383.160, and 383.175, to read as follows:

**194.320. 1. No hospital, as defined in section 197.020, physician, procurement  
2 organization, as defined in section 194.210, or other person shall determine the ultimate  
3 recipient of an anatomical gift based upon a potential recipient's physical or mental  
4 disability or congenital condition, except to the extent that the physical or mental disability  
5 or congenital condition has been found by a physician, following a case-by-case evaluation  
6 of the potential recipient, to be medically significant to the provision of the anatomical gift.  
7 The provisions of this subsection shall apply to each part of the organ transplant process,  
8 including, but not limited to, the following:**

- 9       **(1) The referral from a primary care provider to a specialist;**  
10       **(2) The referral from a specialist to a transplant center;**  
11       **(3) The evaluation of the patient for the transplant by the transplant center; and**  
12       **(4) The consideration of the patient for placement on an official waiting list.**  
13       **2. A person with a physical or mental disability or congenital condition shall not**  
14 **be required to demonstrate postoperative independent living abilities in order to have**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 **access to a transplant if there is evidence that the person will have sufficient, compensatory**  
16 **support and assistance.**

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

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

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

303.200. 1. After consultation with insurance companies [~~authorized to issue automobile~~  
2 ~~liability policies]~~ **having a certificate of authority to do business in this state and actively**  
3 **writing motor vehicle liability policies,** the director of the department of commerce and  
4 insurance, **hereinafter referred to as the director,** shall approve a reasonable plan [~~or plans for~~  
5 ~~the equitable apportionment among such companies of applicants for such policies and for~~  
6 ~~personal automobile and commercial motor vehicle liability]~~ **to provide motor vehicle**  
7 **insurance policies for applicants** who are in good faith entitled to but are unable to procure  
8 such policies through ordinary methods. **The plan shall be known as the "Missouri**  
9 **Automobile Insurance Plan", hereinafter referred to as the plan.** When any such plan has  
10 been approved, all such insurance companies shall subscribe thereto and participate therein. [~~The~~  
11 ~~plan manager, on the plan's behalf, shall contract with an entity or entities to accept and service~~  
12 ~~applicants and policies for any company that does not elect to accept and service applicants and~~  
13 ~~policies. By October first of each year any company that elects to accept and service applicants~~  
14 ~~and policies for the next calendar year for any such plan shall so notify the plan. Except as~~  
15 ~~provided in subsection 2 of this section, any company that does not so notify a plan established~~  
16 ~~for handling coverage for personal automobile risks shall be excused from accepting and~~  
17 ~~servicing applicants and policies for the next calendar year for such plan and shall pay a fee to~~  
18 ~~the plan or servicing entity for providing such services. The fee shall be based on the company's~~  
19 ~~market share as determined by the company's writings of personal automobile risks in the~~  
20 ~~voluntary market.] Any applicant for [~~any such~~] a policy, any person insured under [~~any such~~]  
21 **the plan,** and any insurance company affected may appeal to the director from any ruling or  
22 decision of the [~~manager or committee designated to operate such~~] plan. Any person aggrieved  
23 hereunder by any order or act of the director may, within ten days after notice thereof, file a  
24 petition in the circuit court of the county of Cole for a review thereof. The court shall summarily  
25 hear the petition and may make any appropriate order or decree. [~~As used in this section, the term~~  
26 ~~"personal automobile" means a private passenger nonfleet vehicle, motorcycle, camper and travel~~  
27 ~~trailer, antique auto, amphibious auto, motor home, named nonowner applicant, or a low-speed~~~~

28 ~~vehicle subject to chapter 304 which is not primarily used for business or nonprofit interests and~~  
29 ~~which is generally used for personal, family, or household purposes.]~~

30 2. ~~[If the total premium volume for any one plan established for handling coverage for~~  
31 ~~personal automobile risks exceeds ten million dollars in a calendar year, a company with more~~  
32 ~~than five percent market share of such risks in Missouri shall not be excused from accepting and~~  
33 ~~servicing applicants and policies of such plan under subsection 1 of this section for the next~~  
34 ~~calendar year, unless the governing body of the plan votes to allow any company with such~~  
35 ~~market share the option to be excused]~~ **The plan shall perform its functions under a plan of**  
36 **operation and through a governing committee as prescribed in the plan of operation. Any**  
37 **plan of operation, prior to taking effect, shall be filed and approved by the director. Any**  
38 **amendments to the plan of operation so adopted shall also be filed with and approved by**  
39 **the director prior to taking effect.**

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

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

44 (2) **A nationally recognized management organization and service provider that**  
45 **specializes in the administration of motor vehicle insurance residual market mechanisms,**  
46 **subject to the approval of the director; or**

47 (3) **An insurance company that has a certificate of authority to do business in this**  
48 **state.**

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

52 5. **Any policy of insurance issued by the plan shall conform to the provisions of this**  
53 **chapter and any insurance law of this state applicable to motor vehicle insurance policies,**  
54 **except for any law that specifically exempts the plan from the purview of the law.**

55 6. **The plan shall:**

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

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

59 (3) **Have the authority to make assessments on member insurance companies if the**  
60 **funds from policyholder premiums and other revenues are not sufficient for the sound**  
61 **operation of the plan. An assessment upon a member insurance company shall be in the**  
62 **same proportion to its share of the voluntary market premium for the type of policies**

63 written under the plan. The procedures for levying assessment shall be prescribed in the  
64 plan of operation.

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

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

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

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

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

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

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

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

375.246. 1. Credit for reinsurance shall be allowed a domestic ceding insurer as either  
2 an asset or a reduction from liability on account of reinsurance ceded only when the reinsurer  
3 meets the requirements of ~~subdivisions~~ subdivision (1) ~~[to]~~ , (2), (3), (4), (5), (6), or (7) of this  
4 subsection; provided that, the director may adopt by rule; under subdivision (2) of  
5 subsection 4 of this section, specific additional requirements relating to or setting forth the

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

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

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

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

21 (b) Submit to the authority of the department of commerce and insurance to examine its  
22 books and records;

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

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

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

34 (3) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is  
35 domiciled in, or in the case of a United States branch of an alien assuming insurer is entered  
36 through, a state that employs standards regarding credit for reinsurance substantially similar to  
37 those applicable under this statute and the assuming insurer or United States branch of an alien  
38 assuming insurer:

39 (a) Maintains a surplus as regards policyholders in an amount not less than twenty  
40 million dollars; except that this paragraph does not apply to reinsurance ceded and assumed  
41 pursuant to pooling arrangements among insurers in the same holding company system; and

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

44 (4) (a) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that  
45 maintains a trust fund in a qualified United States financial institution, as defined in subdivision  
46 (2) of subsection 3 of this section, for the payment of the valid claims of its United States ceding  
47 insurers, their assigns and successors in interest. To enable the director to determine the  
48 sufficiency of the trust fund, the assuming insurer shall report annually to the director  
49 information substantially the same as that required to be reported on the National Association  
50 of Insurance Commissioners' annual statement form by licensed insurers. The assuming insurer  
51 shall submit to examination of its books and records by the director.

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

54 a. The commissioner or director of the state agency regulating insurance in the state  
55 where the trust is domiciled; or

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

58 (c) The form of the trust and any trust amendments shall also be filed with the  
59 commissioner or director in every state in which the ceding insurer beneficiaries of the trust are  
60 domiciled. The trust instrument shall provide that contested claims shall be valid and  
61 enforceable upon the final order of any court of competent jurisdiction in the United States. The  
62 trust shall vest legal title to its assets in its trustees for the benefit of the assuming insurer's  
63 United States ceding insurers, their assigns and successors in interest. The trust and the  
64 assuming insurer shall be subject to examination as determined by the director.

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

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

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

76 b. At any time after the assuming insurer has permanently discontinued underwriting  
77 new business secured by the trust for at least three full years, the director with principal regulator

78 oversight of the trust may authorize a reduction in the required trusteed surplus, but only after  
79 a finding based on an assessment of risk that the new required surplus level is adequate for the  
80 protection of United States ceding insurers, policyholders, and claimants in light of reasonably  
81 foreseeable adverse loss development. The risk assessment may involve an actuarial review,  
82 including an independent analysis of reserves and cash flows, and shall consider all material risk  
83 factors including, when applicable, the lines of business involved, the stability of the incurred  
84 loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or  
85 solvency. The minimum required trusteed surplus shall not be reduced to an amount less than  
86 thirty percent of the assuming insurer's liabilities attributable to reinsurance ceded by United  
87 States ceding insurers covered by the trust;

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

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

93 (ii) For reinsurance ceded under reinsurance agreements with an inception date on or  
94 before December 31, 1992, and not amended or renewed after that date, notwithstanding the  
95 other provisions of this section, the trust shall consist of a trustee account in an amount not less  
96 than the respective underwriter's several insurance and reinsurance liabilities attributable to  
97 business in the United States; and

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

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

104 e. Within ninety days after its financial statements are due to be filed with the group's  
105 domiciliary regulator, the group shall provide to the director an annual certification by the  
106 group's domiciliary regulator of the solvency of each underwriter member; or if a certification  
107 is unavailable, financial statements, prepared by independent public accountants, of each  
108 underwriter member of the group;

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

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

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

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

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

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

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

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

130 (c) An association including incorporated and individual unincorporated underwriters  
131 may be a certified reinsurer. To be eligible for certification, in addition to satisfying  
132 requirements of paragraph (b) of this subdivision:

133 a. The association shall satisfy its minimum capital and surplus requirements through  
134 the capital and surplus equivalents (net of liabilities) of the association and its members, which  
135 shall include a joint central fund that may be applied to any unsatisfied obligation of the  
136 association or any of its members, in an amount determined by the director to provide adequate  
137 protection;

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

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

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

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

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

151 b. To determine whether the domiciliary jurisdiction of a non-United States assuming  
152 insurer is eligible to be recognized as a qualified jurisdiction, the director shall evaluate the  
153 appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both  
154 initially and on an ongoing basis, and consider the rights, benefits, and extent of reciprocal  
155 recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled  
156 in the United States. A qualified jurisdiction shall agree to share information and cooperate with  
157 the director with respect to all certified reinsurers domiciled within that jurisdiction. A  
158 jurisdiction shall not be recognized as a qualified jurisdiction if the director has determined that  
159 the jurisdiction does not adequately and promptly enforce final United States judgments and  
160 arbitration awards. Additional factors may be considered at the discretion of the director.

161 c. The director may consider a list of qualified jurisdictions published by the National  
162 Association of Insurance Commissioners (NAIC) in determining qualified jurisdictions for the  
163 purposes of this section. If the director approves a jurisdiction as qualified that does not appear  
164 on the list of qualified jurisdictions, the director shall provide thoroughly documented  
165 justification in accordance with criteria to be developed by rule.

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

168 e. If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction,  
169 the director has the discretion to suspend the reinsurer's certification indefinitely, in lieu of  
170 revocation.

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

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

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

182 c. If a certified reinsurer maintains a trust to fully secure its obligations under paragraph  
183 (d) of subdivision (4) of this subsection and chooses to secure its obligations incurred as a

184 certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer shall maintain  
185 separate trust accounts for its obligations incurred under reinsurance agreements issued or  
186 renewed as a certified reinsurer with reduced security as permitted by this subsection or  
187 comparable laws of other United States jurisdictions and for its obligations subject to paragraph  
188 (e) of subdivision (4) of this subsection. It shall be a condition to the grant of certification under  
189 this section that the certified reinsurer shall have bound itself, by the language of the trust and  
190 agreement with the director with principal regulatory oversight of each such trust account, to  
191 fund, upon termination of any such trust account, out of the remaining surplus of such trust any  
192 deficiency of any other such trust account.

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

197 e. With respect to obligations incurred by a certified reinsurer under this paragraph, if  
198 the security is insufficient, the director shall order the certified reinsurer to provide sufficient  
199 security for such incurred obligations within thirty days. If a certified reinsurer does not provide  
200 sufficient security for its obligations incurred under this subsection within thirty days of being  
201 ordered to do so by the director, the director has the discretion to allow credit in the amount of  
202 the required security for one year. Following this one-year period, the director shall impose  
203 reductions in allowable credit upon finding that there is a material risk that the certified  
204 reinsurer's obligations will not be paid in full when due.

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

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

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

213 g. If an applicant for certification has been certified as a reinsurer in an NAIC-accredited  
214 jurisdiction, the director has the discretion to defer to that jurisdiction's certification and to the  
215 rating assigned by that jurisdiction, and such assuming insurer shall be considered to be a  
216 certified reinsurer in this state.

217 h. A certified reinsurer that ceases to assume new business in this state may request to  
218 maintain its certification in inactive status in order to continue to qualify for a reduction in  
219 security for its in-force business. An inactive certified reinsurer shall continue to comply with

220 all applicable requirements of this subsection, and the director shall assign a rating that takes into  
221 account, if relevant, the reasons why the reinsurer is not assuming new business.

222 **(6) Credit:**

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

225 **a. The assuming insurer shall have its head office or be domiciled in, as applicable,**  
226 **and be licensed in a reciprocal jurisdiction. A "reciprocal jurisdiction" is a jurisdiction**  
227 **that meets one of the following:**

228 **(i) A non-United States jurisdiction that is subject to an in-force covered agreement**  
229 **with the United States, each within its legal authority, or, in the case of a covered**  
230 **agreement between the United States and European Union, is a member state of the**  
231 **European Union. For purposes of this subdivision, a "covered agreement" is an agreement**  
232 **entered into pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection**  
233 **Act, 31 U.S.C. Sections 313 and 314, that is currently in effect or in a period of provisional**  
234 **application and addresses the elimination, under specified conditions, of collateral**  
235 **requirements as a condition for entering into any reinsurance agreement with a ceding**  
236 **insurer domiciled in this state or for allowing the ceding insurer to recognize credit for**  
237 **reinsurance;**

238 **(ii) A United States jurisdiction that meets the requirements for accreditation under**  
239 **the NAIC financial standards and accreditation program; or**

240 **(iii) A qualified jurisdiction, as determined by the director under paragraph (d) of**  
241 **subdivision (5) of this subsection, that is not otherwise described in item (i) or (ii) of this**  
242 **subparagraph and that meets certain additional requirements, consistent with the terms**  
243 **and conditions of in-force covered agreements, as specified by the director by rule.**

244 **b. The assuming insurer shall have and maintain, on an ongoing basis, minimum**  
245 **capital and surplus, or its equivalent, calculated according to the methodology of its**  
246 **domiciliary jurisdiction, in an amount to be set forth by rule. If the assuming insurer is**  
247 **an association, including incorporated and individual unincorporated underwriters, it shall**  
248 **have and maintain, on an ongoing basis, minimum capital and surplus equivalents (net of**  
249 **liabilities) calculated according to the methodology applicable to its domiciliary**  
250 **jurisdiction, and a central fund containing a balance in amounts to be set forth by rule.**

251 **c. The assuming insurer shall have and maintain, on an ongoing basis, a minimum**  
252 **solvency or capital ratio, as applicable, which shall be set forth by rule. If the assuming**  
253 **insurer is an association, including incorporated and individual unincorporated**  
254 **underwriters, it shall have and maintain, on an ongoing basis, a minimum solvency or**

255 capital ratio in the reciprocal jurisdiction where the assuming insurer has its head office  
256 or is domiciled, as applicable, and is also licensed.

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

259 (i) The assuming insurer shall provide prompt written notice and explanation to  
260 the director if it falls below the minimum requirements set forth in subparagraph b. or c.  
261 of this paragraph, or if any regulatory action is taken against it for serious noncompliance  
262 with applicable law;

263 (ii) The assuming insurer shall consent in writing to the jurisdiction of the courts  
264 of this state and to the appointment of the director as agent for service of process. The  
265 director may require that consent for service of process be provided to the director and  
266 included in each reinsurance agreement. Nothing in this provision shall limit, or in any  
267 way alter, the capacity of parties to a reinsurance agreement to agree to alternative dispute  
268 resolution mechanisms, except to the extent such agreements are unenforceable under  
269 applicable insolvency or delinquency laws;

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

273 (iv) Each reinsurance agreement shall include a provision requiring the assuming  
274 insurer to provide security in an amount equal to one hundred percent of the assuming  
275 insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the  
276 assuming insurer resists enforcement of a final judgment that is enforceable under the law  
277 of the jurisdiction in which it was obtained or a properly enforceable arbitration award,  
278 whether obtained by the ceding insurer or by its legal successor on behalf of its resolution  
279 estate; and

280 (v) The assuming insurer shall confirm that it is not presently participating in any  
281 solvent scheme of arrangement that involves this state's ceding insurers, and agree to notify  
282 the ceding insurer and the director and to provide security in an amount equal to one  
283 hundred percent of the assuming insurer's liabilities to the ceding insurer, if the assuming  
284 insurer enters into such a solvent scheme of arrangement. Such security shall be in a form  
285 consistent with the provisions of subdivision (5) of this subsection, subsection 2 of this  
286 section, and as specified by the director by rule.

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

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

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

296           **h. Nothing in this subdivision precludes an assuming insurer from providing the**  
297 **director with information on a voluntary basis.**

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

299           **a. A list of reciprocal jurisdictions is published through the NAIC committee**  
300 **process. The director's list shall include any reciprocal jurisdiction as defined under items**  
301 **(i) and (ii) of subparagraph a. of paragraph (a) of this subdivision, and shall consider any**  
302 **other reciprocal jurisdiction included on the NAIC list. The director may approve a**  
303 **jurisdiction that does not appear on the NAIC list of reciprocal jurisdictions in accordance**  
304 **with criteria to be developed under rules promulgated by the director.**

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

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

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

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

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

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

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

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

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

351           **b. Nothing in this subdivision shall authorize an assuming insurer to withdraw or**  
352 **reduce the security provided under any reinsurance agreement except as permitted by the**  
353 **terms of the agreement.**

354           **c. Nothing in this subdivision shall limit, or in any way alter, the capacity of parties**  
355 **to any reinsurance agreement to renegotiate the agreement.**

356           **(7) Credit:**

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

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

365 ~~[(7)]~~ (8) If the assuming insurer is not licensed, accredited, or certified to transact  
366 insurance or reinsurance in this state, the credit permitted by subdivisions (3) and (4) of this  
367 subsection shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

368 (a) That in the event of the failure of the assuming insurer to perform its obligations  
369 under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding  
370 insurer shall submit to the jurisdiction of the courts of this state, will comply with all  
371 requirements necessary to give such courts jurisdiction, and will abide by the final decisions of  
372 such courts or of any appellate courts in this state in the event of an appeal; and

373 (b) To designate the director or a designated attorney as its true and lawful attorney upon  
374 whom may be served any lawful process in any action, suit or proceeding instituted by or on  
375 behalf of the ceding insurer. This paragraph is not intended to conflict with or override the  
376 obligation of the parties to a reinsurance agreement to arbitrate their disputes, if this obligation  
377 is created in the agreement and the jurisdiction and situs of the arbitration is, with respect to any  
378 receivership of the ceding company, any jurisdiction of the United States;

379 ~~[(8)]~~ (9) If the assuming insurer does not meet the requirements of subdivision (1), (2)  
380 or (3) of this subsection, the credit permitted by subdivision (4) or (5) of this subsection shall not  
381 be allowed unless the assuming insurer agrees in the trust agreements to the following  
382 conditions:

383 (a) Notwithstanding any other provisions in the trust instrument, if the trust fund is  
384 inadequate because it contains an amount less than the amount required by paragraph (e) of  
385 subdivision (4) of this subsection, or if the grantor of the trust has been declared insolvent or  
386 placed into receivership, rehabilitation, liquidation or similar proceedings under the laws of its  
387 state or country of domicile, the trustee shall comply with an order of the commissioner or  
388 director with regulatory oversight over the trust or with an order of a court of competent  
389 jurisdiction directing the trustee to transfer to the commissioner or director with regulatory  
390 oversight all of the assets of the trust fund;

391 (b) The assets shall be distributed by and claims shall be filed with and valued by the  
392 commissioner or director with regulatory oversight in accordance with the laws of the state in  
393 which the trust is domiciled that are applicable to the liquidation of domestic insurance  
394 companies;

395 (c) If the commissioner or director with regulatory oversight determines that the assets  
396 of the trust fund or any part thereof are not necessary to satisfy the claims of the United States

397 ceding insurers of the grantor of the trust, the assets or part thereof shall be returned by the  
398 commissioner or director with regulatory oversight to the trustee for distribution in accordance  
399 with the trust agreement; and

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

402 ~~[(9)]~~ (10) (a) If an accredited or certified reinsurer ceases to meet the requirements for  
403 accreditation or certification, the director may suspend or revoke the reinsurer's accreditation or  
404 certification.

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

407 a. The reinsurer waives its right to hearing;

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

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

414 (c) While a reinsurer's accreditation or certification is suspended, no reinsurance contract  
415 issued or renewed after the effective date of the suspension qualifies for credit except to the  
416 extent that the reinsurer's obligations under the contract are secured in accordance with  
417 subdivision (5) of this subsection or subsection 2 of this section. If a reinsurer's accreditation  
418 or certification is revoked, no credit for reinsurance shall be granted after the effective date of  
419 the revocation except to the extent that the reinsurer's obligations under the contract are secured  
420 in accordance with subdivision (5) of this subsection or subsection 2 of this section.

421 ~~[(10)]~~ (11) (a) A ceding insurer shall take steps to manage its reinsurance recoverables  
422 proportionate to its own book of business. A domestic ceding insurer shall notify the director  
423 within thirty days after reinsurance recoverables from any single assuming insurer or group of  
424 affiliated assuming insurers exceeds fifty percent of the domestic ceding insurer's last reported  
425 surplus to policyholders or after it is determined that reinsurance recoverables from any single  
426 assuming insurer or group of affiliated assuming insurers is likely to exceed such limit. The  
427 notification shall demonstrate that the exposure is safely managed by the domestic ceding  
428 insurer.

429 (b) A ceding insurer shall take steps to diversify its reinsurance program. A domestic  
430 ceding insurer shall notify the director within thirty days after ceding to any single assuming  
431 insurer or group of affiliated assuming insurers more than twenty percent of the ceding insurer's  
432 gross written premium in the prior calendar year or after it has determined that the reinsurance

433 ceded to any single assuming insurer or group of affiliated assuming insurers is likely to exceed  
434 such limit. The notification shall demonstrate that the exposure is safely managed by the  
435 domestic ceding insurer.

436 2. An asset or reduction from liability for the reinsurance ceded by a domestic insurer  
437 to an assuming insurer not meeting the requirements of subsection 1 of this section shall be  
438 allowed in an amount not exceeding the liabilities carried by the ceding insurer; **provided that,**  
439 **the director may adopt by rule, under subdivision (2) of subsection 4 of this section, specific**  
440 **additional requirements relating to or setting forth the valuation of assets or reserve**  
441 **credits, the amount and forms of security supporting reinsurance arrangements described**  
442 **in subdivision (2) of subsection 4 of this section, or the circumstances under which credit**  
443 **will be reduced or eliminated.** The reduction shall be in the amount of funds held by or on  
444 behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a  
445 reinsurance contract with the assuming insurer as security for the payment of obligations  
446 thereunder, if the security is held in the United States subject to withdrawal solely by, and under  
447 the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified United  
448 States financial institution, as defined in subdivision (2) of subsection 3 of this section. This  
449 security may be in the form of:

450 (1) Cash;

451 (2) Securities listed by the securities valuation office of the National Association of  
452 Insurance Commissioners, including those deemed exempt from filing as defined by the  
453 Purposes and Procedures Manual of the Securities Valuation Office, and qualifying as admitted  
454 assets;

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

460 (b) Letters of credit meeting applicable standards of issuer acceptability as of the dates  
461 of their issuance or confirmation, notwithstanding the issuing or confirming institution's  
462 subsequent failure to meet applicable standards of issuer acceptability, shall continue to be  
463 acceptable as security until their expiration, extension, renewal, modification or amendment,  
464 whichever first occurs;

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

466 3. (1) For purposes of subdivision (3) of subsection 2 of this section, a "qualified United  
467 States financial institution" means an institution that:

468 (a) Is organized or, in the case of a United States office of a foreign banking  
469 organization, licensed under the laws of the United States or any state thereof;

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

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

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

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

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

484 4. (1) The director may adopt rules and regulations implementing the provisions of this  
485 section.

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

488 (a) **A rule adopted under this subdivision may apply only to reinsurance relating**  
489 **to:**

490 **a. Life insurance policies with guaranteed nonlevel gross premiums or guaranteed**  
491 **nonlevel benefits;**

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

494 **c. Variable annuities with guaranteed death or living benefits;**

495 **d. Long-term care insurance policies; or**

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

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

502 (c) **A rule adopted under this subdivision shall require the ceding insurer, in**  
503 **calculating the amounts or forms of security required to be held under rules promulgated**

504 **under this authority, to use the valuation manual adopted in accordance with subsection**  
505 **6 of section 376.380, including all amendments adopted thereto and in effect on the date**  
506 **the calculation is made, to the extent applicable.**

507 **(d) A regulation adopted under this subdivision shall not apply to cessions to an**  
508 **assuming insurer that:**

509 **a. Meets the conditions set forth in subdivision (6) of subsection 1 of this section,**  
510 **or if this state has not fully implemented provisions substantially equivalent to subdivision**  
511 **(6) of subsection 1 of this section by rule or otherwise, the assuming insurer is operating**  
512 **in accordance with provisions substantially equivalent to subdivision (6) of subsection 1**  
513 **of this section in a minimum of five other states;**

514 **b. Is certified in this state; or**

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

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

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

522 **(e) The authority to adopt regulations under this subdivision does not limit the**  
523 **director's general authority to adopt regulations under subdivision (1) of this subsection.**

524 **5. (1) The director shall disallow any credit as an asset or as a deduction from liability**  
525 **for any reinsurance found by him to have been arranged for the purpose principally of deception**  
526 **as to the ceding company's financial condition as of the date of any financial statement of the**  
527 **company. Without limiting the general purport of this provision, reinsurance of any substantial**  
528 **part of the company's outstanding risks contracted for in fact within four months prior to the date**  
529 **of any such financial statement and cancelled in fact within four months after the date of such**  
530 **statement, or reinsurance under which the assuming insurer bears no substantial insurance risk**  
531 **or substantial risk of net loss to itself, shall prima facie be deemed to have been arranged for the**  
532 **purpose principally of deception within the intent of this provision.**

533 **(2) (a) The director shall also disallow as an asset or deduction from liability to any**  
534 **ceding insurer any credit for reinsurance unless the reinsurance is payable to the ceding company,**  
535 **and if it be insolvent to its receiver, by the assuming insurer on the basis of the liability of the**  
536 **ceding company under the contracts reinsured without diminution because of the insolvency of**  
537 **the ceding company.**

538 **(b) Such payments shall be made directly to the ceding insurer or to its domiciliary**  
539 **liquidator except:**

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

543 b. Where the assuming insurer, with the consent of it and the direct insured or insureds  
544 in an assumption reinsurance transaction subject to sections 375.1280 to 375.1295, has assumed  
545 such policy obligations of the ceding insurer as direct obligations of the assuming insurer to the  
546 payees under such policies and in substitution for the obligations of the ceding insurer to such  
547 payees.

548 (c) Notwithstanding paragraphs (a) and (b) of this subdivision, in the event that a life and  
549 health insurance guaranty association has made the election to succeed to the rights and  
550 obligations of the insolvent insurer under the contract of reinsurance, then the reinsurer's liability  
551 to pay covered reinsured claims shall continue under the contract of reinsurance, subject to the  
552 payment to the reinsurer of the reinsurance premiums for such coverage. Payment for such  
553 reinsured claims shall only be made by the reinsurer pursuant to the direction of the guaranty  
554 association or its designated successor. Any payment made at the direction of the guaranty  
555 association or its designated successor by the reinsurer will discharge the reinsurer of all further  
556 liability to any other party for such claim payment.

557 (d) The reinsurance agreement may provide that the domiciliary liquidator of an  
558 insolvent ceding insurer shall give written notice to the assuming insurer of the pendency of a  
559 claim against such ceding insurer on the contract reinsured within a reasonable time after such  
560 claim is filed in the liquidation proceeding. During the pendency of such claim, any assuming  
561 insurer may investigate such claim and interpose, at its own expense, in the proceeding where  
562 such claim is to be adjudicated any defenses which it deems available to the ceding insurer, or  
563 its liquidator. Such expense may be filed as a claim against the insolvent ceding insurer to the  
564 extent of a proportionate share of the benefit which may accrue to the ceding insurer solely as  
565 a result of the defense undertaken by the assuming insurer. Where two or more assuming  
566 insurers are involved in the same claim and a majority in interest elect to interpose a defense to  
567 such claim, the expense shall be apportioned in accordance with the terms of the reinsurance  
568 agreement as though such expense had been incurred by the ceding insurer.

569 6. To the extent that any reinsurer of an insurance company in liquidation would have  
570 been required under any agreement pertaining to reinsurance to post letters of credit or other  
571 security prior to an order of liquidation to cover such reserves reflected upon the last financial  
572 statement filed with a regulatory authority immediately prior to receivership, such reinsurer shall  
573 be required to post letters of credit or other security to cover reserves after a company has been  
574 placed in liquidation or receivership. If a reinsurer shall fail to post letters of credit or other  
575 security as required by a reinsurance agreement or the provisions of this subsection, the director

576 may consider disallowing as a credit or asset, in whole or in part, any future reinsurance ceded  
577 to such reinsurer by a ceding insurance company that is incorporated under the laws of the state  
578 of Missouri.

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

582 8. Notwithstanding any other provision of this section, a domestic insurer may take credit  
583 for reinsurance ceded either as an asset or a reduction from liability only to the extent such credit  
584 is allowed by the consistent application of either applicable statutory accounting principles  
585 adopted by the NAIC or other accounting principles approved by the director.

586 9. The director may suspend the accreditation, approval, or certification under subsection  
587 1 of this section of any reinsurer for failure to comply with the applicable requirements of  
588 subsection 1 of this section after providing the affected reinsurer with notice and opportunity for  
589 hearing.

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

11 2. All individual and group health insurance policies providing coverage on an  
12 expense-incurred basis, individual and group service or indemnity type contracts issued by a  
13 nonprofit corporation, individual and group service contracts issued by a health maintenance  
14 organization, all self-insured group arrangements to the extent not preempted by federal law and  
15 all managed health care delivery entities of any type or description, that are delivered, issued for  
16 delivery, continued or renewed on or after August 28, 1991, and providing coverage to any  
17 resident of this state shall provide benefits or coverage for low-dose mammography screening  
18 for any nonsymptomatic woman covered under such policy or contract which meets the  
19 minimum requirements of this section. Such benefits or coverage shall include at least the  
20 following:

- 21 (1) A baseline mammogram for women age thirty-five to thirty-nine, inclusive;  
22 (2) A mammogram every year for women age forty and over;

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

27 (4) **Any additional or supplemental imaging, such as breast magnetic resonance**  
28 **imaging or ultrasound, deemed medically necessary by a treating physician for proper**  
29 **breast cancer screening or evaluation in accordance with applicable American College of**  
30 **Radiology guidelines; and**

31 (5) **Ultrasound or magnetic resonance imaging services, if determined by a treating**  
32 **physician to be medically necessary for the screening or evaluation of breast cancer for any**  
33 **woman deemed by the treating physician to have an above-average risk for breast cancer**  
34 **in accordance with American College of Radiology guidelines for breast cancer screening.**

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

**376.1590. 1. As used in this section, the term "insurance policy" means a policy or**  
2 **other contract of life insurance as such term is defined in section 376.365, a policy of**  
3 **accident and sickness insurance as such term is defined in section 376.773, or a long-term**  
4 **care insurance policy as such term is defined in section 376.1100.**

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

9 3. (1) The department of commerce and insurance shall provide information to the  
10 public on the access of a living organ donor to insurance as specified in this section. If the  
11 department of commerce and insurance receives materials related to live organ donation  
12 from a recognized live organ donation organization, the department of commerce and  
13 insurance may make the materials available to the public.

14 (2) If the department of health and senior services receives materials related to live  
15 organ donation from a recognized live organ donation organization, the department of  
16 health and senior services may make the materials available to the public.

17           **(3) The department of commerce and insurance and the department of health and**  
18 **senior services may seek and accept gifts, grants, or donations from private or public**  
19 **sources for the purposes of this subsection.**

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

**379.402. 1. A producer or insurer, by or through its employees, affiliates, or**  
2 **authorized third parties, may offer or provide products or services in conjunction with a**  
3 **policy of property and casualty insurance for free, at a discount, or at market value, if such**  
4 **products or services are intended to:**

- 5           **(1) Prevent or mitigate loss to persons or property;**
- 6           **(2) Provide loss control;**
- 7           **(3) Reduce rates or claims;**
- 8           **(4) Educate about risk of loss to persons or property;**
- 9           **(5) Monitor or assess risk, identify sources of risk, or develop strategies for**  
10 **eliminating or reducing risks; or**
- 11           **(6) Provide post-loss services.**

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

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

20           **4. The director may promulgate rules to exempt, but not restrict, additional**  
21 **categories of products or services under this section with regard to the provisions of section**  
22 **379.356 and subdivision (9) of section 375.936 that prohibit insurers, employees of an**  
23 **insurer, affiliates, insurance producers, or other third parties from giving rebates,**  
24 **discounts, gifts, or other valuable consideration as an inducement to insurance. Any rule**

25 or portion of a rule, as that term is defined in section 536.010, that is created under the  
 26 authority delegated in this section shall become effective only if it complies with and is  
 27 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This  
 28 section and chapter 536 are nonseverable, and if any of the powers vested with the general  
 29 assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove  
 30 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking  
 31 authority and any rule proposed or adopted after August 28, 2020, shall be invalid and  
 32 void.

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

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

4 2. The committee shall consist of thirteen members:

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

6 ~~—— American Insurance Association, two;~~

7 ~~—— Property Casualty Insurers Association of America, two;~~

8 ~~—— National Association of Mutual Insurance Companies, one;~~

9 ~~—— Missouri Insurance Coalition, one;~~

10 ~~—— All other stock insurers, two;~~

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

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

13 Missouri insurer, one;

14 Licensed agent of an insurer, two.

15

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

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

20 4. **There shall be no liability imposed on the part of and no cause of action of any**  
 21 **nature shall arise against any member insurer or any member of the governing committee**  
 22 **for any omission or action taken in the performance of their powers and duties under**  
 23 **sections 379.810 to 379.880.**

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

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

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

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

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

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

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

(3) A policy issued to a trust, or to the trustees of a fund, established or adopted by two or more employers, or by one or more labor unions or similar employee organizations, or by one or more employers and one or more labor unions or similar employee organizations, which trust or trustees shall be deemed the policyholder, to insure

37 employees of the employers or members of the unions or organizations for the benefit of  
38 persons other than the employers or the unions or organizations, subject to the following  
39 requirements:

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

51 (b) The premium for the policy shall be paid from funds contributed by the  
52 employer or employers of the insured persons, by the union or unions or similar employee  
53 organizations, or by both, or from funds contributed by the insured persons or from both  
54 the insured persons and the employers or unions or similar employee organizations. A  
55 policy on which no part of the premium is to be derived from funds contributed by the  
56 insured persons specifically for their insurance shall insure all eligible persons, except  
57 those who reject such coverage in writing;

58 (4) A policy issued to an association or to a trust or to the trustees of a fund  
59 established, created, or maintained for the benefit of members of one or more associations.  
60 The association or associations shall have at the outset a minimum of one hundred persons,  
61 shall have been organized and maintained in good faith for purposes other than that of  
62 obtaining insurance, shall have been in active existence for at least one year, and shall have  
63 a constitution and bylaws which providing that the association or associations hold regular  
64 meetings no less than annually to further purposes of the members, that the association or  
65 associations collect dues or solicit contributions from members, and that the members have  
66 voting privileges and representation on the governing board and committees. The policy  
67 shall be subject to the following requirements:

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

71 (b) The premium for the policy shall be paid from funds contributed by the  
72 association or associations, by employer members, or by both, or from funds contributed

73 by the insured persons or from both the insured persons and the association, associations,  
74 or employer members. A policy on which no part of the premium is to be derived from  
75 funds contributed by the insured persons specifically for their insurance shall insure all  
76 eligible persons, except those who reject such coverage in writing;

77 (c) If compensation of any kind will or may be paid to the policyholder in  
78 connection with the group policy, the insurer shall cause to be distributed to prospective  
79 insureds a written notice that compensation will or may be paid. Such notice shall be  
80 distributed whether such compensation is direct or indirect, and whether such  
81 compensation is paid to or retained by the policyholder, or paid to or retained by a third  
82 party at the direction of the policyholder or any entity affiliated with the policyholder by  
83 ownership, contract, or employment. The notice required by this subsection shall be  
84 placed on or accompany any document designed for the enrollment of prospective  
85 insureds;

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

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

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

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

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

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

99 (2) A group personal lines property and casualty insurance coverage shall not be  
100 offered in this state by an insurer under a policy issued or delivered in another state unless  
101 this state or another state having requirements substantially similar to those contained in  
102 subdivision (1) of subsection 2 of this section has made a determination that the  
103 requirements have been met;

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

107 (4) If compensation of any kind will or may be paid to the policyholder in  
108 connection with the group policy, the insurer shall cause to be distributed to prospective

109 insureds a written notice that compensation will or may be paid. Notice shall be  
110 distributed whether compensation is direct or indirect, and whether such compensation is  
111 paid to or retained by the policyholder or paid to or retained by a third party at the  
112 direction of the policyholder or any entity affiliated with the policyholder by ownership,  
113 contract, or employment. The notice required by this subdivision shall be placed on or  
114 accompany any document designed for the enrollment of prospective insureds.

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

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

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

13 (1) Methods of premium collection;

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

16 (3) Termination of the master policy; and

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

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

379.1804. 1. The master policy shall provide a basic package of coverages and  
2 limits that are available to all eligible employees or members. The package shall include  
3 at least the minimum coverages and limits of insurance as required by law in that  
4 employee's or member's state of residence or in the state where the subject property is  
5 located, if applicable. In addition, the master policy may provide additional coverages or  
6 limits to be available at an increased premium to employees or members who qualify under  
7 the terms of the master policy.

8 2. The master policy shall provide coverage for all eligible employees or members  
9 who elect coverage during their initial period of eligibility, which period shall not be less

10 than thirty-one days. Employees or members who do not elect coverage during the initial  
11 period and later request coverage shall be subject to the insurer's underwriting standards.

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

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

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

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

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

21       (4) Termination of employment or membership.

22       5. If optional coverages or limits are available by law in an employee's or member's  
23 state of residence, the policyholder's acceptance or rejection of the optional coverages or  
24 limits on behalf of the group shall be binding on the employees or members. If the  
25 policyholder rejects any coverages or limits that are required by law to be provided unless  
26 rejected by the named insured, notice of the rejection shall be given to the employees or  
27 members at or before the time their certificates of coverage are delivered.

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

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

4       2. Group insurance premium rates shall not be unfairly discriminatory if adjusted  
5 to reflect past and prospective loss experience or group expense factors, or if averaged  
6 broadly among persons insured under the master policy. Such rates shall not be deemed  
7 to be unfairly discriminatory if they do not reflect individual rating factors including  
8 surcharges and discounts required for individual personal lines property and casualty  
9 insurance policies.

10       3. Experience refunds or dividends may be paid to the policyholder of a group  
11 personal lines property and casualty insurance policy if the insurer's experience under that  
12 policy justifies experience refunds or dividends. However, if an experience refund or  
13 dividend is declared, it shall be applied by the policyholder for the sole benefit of the

14 insured employees or members to the extent that the experience refund or dividend exceeds  
15 the policyholder's contribution to premium for the period covered by such experience  
16 refund or dividend.

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

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

8 3. (1) No insurer shall issue or deliver a group personal lines property and casualty  
9 insurance policy if:

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

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

15 (2) The provision under paragraph (b) of subdivision (1) of subsection 3 of this  
16 section shall not be deemed to prohibit the reasonable requirement of safety devices, such  
17 as heat detectors, lightning rods, theft prevention equipment, and similar devices. The  
18 provision under paragraph (b) of subdivision (1) of subsection 3 of this section shall not be  
19 deemed to prohibit the marketing of "package" or "combination" policies;

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

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

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

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

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

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

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

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

          379.1812. 1. Each employee or member covered under the master policy whose  
2 coverage thereunder shall terminate for any reason other than the failure to make required  
3 contributions toward premiums or at the request of the employee or member shall receive  
4 from the insurer thirty days prior written notice of termination or ineligibility. The notice  
5 shall state the reasons for discontinuance of coverage under the master policy and shall  
6 explain the employee's or member's options for conversion to an individual policy.

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

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

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

5           **2. The provisions of sections 379.1800 to 379.1816 shall not apply to the mass**  
6 **marketing or any other type of marketing of individual personal lines property and**  
7 **casualty insurance policies.**

8           **3. Sections 379.1800 to 379.1816 shall not apply to policies of credit property or**  
9 **credit casualty insurance that insure the debtors of a creditor or creditors with respect to**  
10 **their indebtedness.**

11           **4. Sections 379.1800 to 379.1816 shall not apply to policies of personal automobile**  
12 **insurance or personal motor vehicle liability insurance, nor shall such sections be**  
13 **construed as authorizing the sale or issuance of personal automobile insurance or personal**  
14 **motor vehicle liability insurance under a group or master policy within this state.**

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

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

**379.1816. The enactment of sections 379.1800 to 379.1816 shall become effective**  
2 **January 1, 2021. No master policy or certificate of insurance shall be issued or delivered**  
3 **in this state after the effective date unless issued or delivered in compliance with sections**  
4 **379.1800 to 379.1816. A master policy or certificate that is lawfully in effect on January**  
5 **1, 2021, shall comply with the provisions of sections 379.1800 to 379.1816 within twelve**  
6 **months of such date.**

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

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

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

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

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

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

20           (4) To cede reinsurance.

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

24           5. The plan of operation shall provide for economic, fair and nondiscriminatory  
25 administration and for the prompt and efficient distribution of medical malpractice insurance,  
26 and shall contain other provisions including, but not limited to, preliminary assessment of all  
27 members for initial expenses to commence operations, establishment of necessary facilities,  
28 management of the association, assessment of members to defray losses and expenses,  
29 reasonable and objective underwriting standards, acceptance and cession of reinsurance,  
30 appointment of a servicing company and procedures for determining amounts of insurance to be  
31 provided by the association. The preliminary assessment shall be an advance to be recouped  
32 under the provisions of subsection 5 of section 383.160.

33           **6. The composition of the board and the terms of directors of the board shall be**  
34 **established by the plan of operation.**

35           7. The plan of operation shall be subject to approval by the director after consultation  
36 with the members of the association, representatives of the public and other affected individuals  
37 and organizations. If the director disapproves all or any part of the proposed plan of operation,  
38 the directors shall within fifteen days submit for review a revised plan of operation. If the  
39 directors fail to do so, the director shall promulgate a plan of operation or part thereof, as the case  
40 may be. The plan of operation approved or promulgated by the director shall become effective  
41 and operational upon his **or her** order.

42           ~~[7-]~~ **8.** Amendments to the plan of operation may be made by the directors of the  
43 association, subject to the approval of the director or shall be made at his direction.

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

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

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

9           3. The rates, rating plans, rating rules, rating classifications and territories applicable to  
10 the insurance written by the association and statistics relating thereto shall be subject to the  
11 casualty rate regulation law giving due consideration to the past and prospective loss and expense  
12 experience in medical malpractice insurance of all of the insurers, trends in the frequency and  
13 severity of losses, the investment income of the association, and such other information as the  
14 director may require. All rates shall be actuarially sound and shall be calculated to be  
15 self-supporting.

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

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

26           6. Any funds which result from policyholder premiums and other revenues received in  
27 excess of those funds required for reserves, loss payments and expenses incurred and accrued  
28 at the end of any calendar year shall be paid proportionately to the general fund to the extent that  
29 credit against premium tax liability has been granted pursuant to subsection 5 and to members  
30 which have been assessed but have not received tax credits as provided in subsection 5.

          383.175. The association shall be governed by a board of eight directors, to be appointed  
2 by the director for the terms specified in the plan of operation. [~~Two directors shall represent~~

3 ~~insurers which write bodily injury insurance in Missouri and are members of the Property~~  
4 ~~Casualty Insurers Association of America, two shall represent insurers which write bodily injury~~  
5 ~~insurance in Missouri and are members of the Missouri Insurance Coalition, two shall represent~~  
6 ~~insurers which write bodily injury insurance in Missouri and are members of the American~~  
7 ~~Insurance Association, and two shall represent insurers which write bodily injury insurance in~~  
8 ~~Missouri but are not members of any of the foregoing trade associations]~~ **The composition of**  
9 **the board of directors shall be established by the plan of operation.** The directors shall be  
10 reimbursed out of the administrative funds of the association only for necessary and actual  
11 expenses incurred for attending meetings of the governing board.

✓