

SB 60	Modifies the law regarding the accreditation requirements for reinsurance companies and specifies when insurers can take credit or reduce liability due to reinsurance
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Current Bill Summary

SB 60 - The act changes the laws regarding the accreditation requirements for reinsurance companies in order to comply with the federal Nonadmitted and Reinsurance Reform Act of 2010. The act changes the requirements for a reinsurance company to do business in Missouri and specifies when an insurance company can take credit or reduce liability on its financial statement due to reinsurance. The act is based upon the NAIC Credit for Reinsurance Model Law.

Under current law, credit for reinsurance is allowed when the reinsurance is ceded to an assuming insurer that is accredited. This act modifies the accreditation criteria. In order to be eligible for accreditation, a reinsurer must demonstrate to the director that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. An assuming insurer shall be deemed to meet such requirement as of the time of its application if it maintains a surplus regarding policyholders in an amount not less than \$20,000,000 and its accreditation has not been denied by the director within 90 days after submission of its application.

The act authorizes the director to authorize a reduction in the required statutory trustee surplus after an assuming insurer has permanently discontinued underwriting new business secured by the trust for at least 3 full years. The reduction in the trustee surplus may only occur after the director makes a finding that the new surplus level is adequate for the protection of U.S. ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development. A risk assessment may include an actuarial review. The minimum required trustee surplus may not be reduced to an amount less than 30 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust.

The act provides that credit shall be allowed when the reinsurance is ceded to an assuming insurer that has been certified by the director as a reinsurer in this state and secures its obligations in accordance with the requirements of the act. To be eligible for certification, an assuming insurer must meet the following criteria:

- (1) Be domiciled and license to transact insurance or reinsurance in a qualified jurisdiction;
- (2) Maintain minimum capital and surplus levels as determined by the director;
- (3) Maintain financial strength ratings from 2 or more acceptable rating agencies;
- (4) Submit to the jurisdiction of Missouri and agree to provide security for 100% of its liabilities attributable to cessions by U.S. ceding insurers if it resists enforcement of a final U.S. judgment;
- (5) Agree to certain informational filing requirements; and
- (6) Meet any other requirements established by the director.

The act provides that associations may be certified reinsurers provided that such associations meet certain requirements. The association shall satisfy its minimum capital and surplus requirements through the capital and surplus equivalents of the association and its members, which shall include a joint central fund that may be applied to any unsatisfied obligation of the association or any of its members, in an amount determined by the director to provide

adequate protection. In addition, the incorporated members of the association shall not be engaged in any business other than underwriting as a member of the association and shall be subject to the same level of regulation and solvency control by the association's domiciliary regulator as are the unincorporated members. Within 90 days after its financial statements are due to be filed with the association's domiciliary regulator, the association shall provide to the commissioner an annual certification by the association's domiciliary regulator of the solvency of each underwriter member; or if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the association.

The act requires the director to create and publish a list of qualified jurisdictions under which an assuming insurer licensed and domiciled in such jurisdiction is eligible to be considered for certification by the director as a certified reinsurer. Non-U.S. jurisdictions shall be evaluated for qualified status by the director based on a number of factors, including the effectiveness of reinsurance supervision; whether the jurisdiction accords reciprocal rights to U.S. reinsurers; any documented evidence of problems with the enforcement of U.S. judgments in the jurisdiction; and the jurisdiction's agreement to share information and cooperate with the director with respect to certified reinsurers.

The act allows the director to consider a list of qualified jurisdictions published by the NAIC in determining qualified jurisdictions. If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the director may suspend the reinsurer's certification.

The act requires the director to assign a rating to each certified reinsurer consistent with the reinsurer's financial strength rating. The director must publish a list of all certified reinsurers and their ratings.

The act provides that certified reinsurers maintaining multibeneficiary trusts must maintain separate trust accounts for their obligations incurred under the reinsurance agreements. It shall be a condition to the grant of certification that the certified reinsurer shall have bound itself, by the language of the trust and agreement with the director, to fund, upon termination of any such trust account, out of the remaining surplus of such trust any deficiency of any other such trust account.

With respect to obligations incurred by a certified reinsurer, if the security is insufficient, the director shall order the certified reinsurer to provide sufficient security for its obligations within 30 days. If the reinsurer fails to do so, the director may allow credit in the amount of the required security for one year. Following the one year period, the director shall impose reductions in the allowable credit upon a finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due.

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

The allows a certified reinsurer that ceases to assume new business to request to maintain its certification in inactive status in order to qualify for a reduction in security for its in-force business.

The act specifically allows the director to suspend or revoke a reinsurer's accreditation or

certification if such reinsurer ceases to meet the requirements for accreditation or certification. The director must give the reinsurer notice and opportunity for a hearing. The suspension or revocation shall not be effective until after the hearing unless other conditions apply (waiver, emergency, etc.). The act sets forth the effect of a suspension or revocation upon the eligibility for credit for reinsurance.

This act also requires a ceding insurer to take steps to manage its reinsurance recoverables proportionate to its own book of business and to diversify its reinsurance program. The act requires a domestic ceding insurer to notify the director within 30 days after reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, exceed 50% of the domestic ceding insurer's last reported surplus to policyholders, or after it is determined that the reinsurance recoverables are likely to exceed that limit. The act also requires a domestic ceding insurer to notify the director within 30 days after ceding to any single assuming insurer, or group of affiliated assuming insurers, more than 20% of the ceding insurer's gross written premium in the prior calendar year, or after it has determined that the reinsurance ceded is likely to exceed this limit.

The provisions of this act become effective on January 1, 2014.

This act is substantially similar to HB 1936 (2012).

STEPHEN WITTE