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Authors: Hoppe

Subject: Reserve Credit for Insurance Companies

Analyst: Larie Ann Pampuch (larie.pampuch@house.mn)

Overview

Under current Minnesota law, there are three different classifications for organizations allowed to reinsure, meaning to take on some of the risk for, a Minnesota insurance company. Reinsurance is beneficial for insurance companies because it diversifies their risk, and can be used to offset liabilities when determining the minimum amount of capitalization they must have to be financially stable.

A "licensed reinsurer" is an organization that is licensed as an insurance company or a reinsurer in this state. A licensed reinsurer must meet the collateral, record keeping, and other requirements for an insurance company or reinsurer in this state. The Risk Based Capital system determines the assets the company must have to offset liabilities.

An "accredited reinsurer" is an organization that is accredited by the commissioner of commerce. The organization must be licensed in at least one state as an insurance company or a reinsurer. An accredited reinsurer must meet the capitalization, record keeping, and other requirements for an accredited reinsurer under section 60A.092. An accredited reinsurer must have sufficient assets to meets its liabilities, this can be met by holding between $20 and $50 million in assets, depending on the type of liability that is being reinsured.

Currently, an organization that is not licensed as an insurer or reinsurer in the United States, must meet the collateral, record keeping, and other requirements under section 60A.092. Specifically, an organization that is not licensed or accredited must hold in trust an amount equal to all of the liabilities that it takes on in Minnesota plus a surplus (be more than completely collateralized).

Section

This bill creates a new classification of reinsurer, the "certified reinsurer," that can be used by an organization that is not licensed or accredited. A certified reinsurer does not need to be licensed as an insurer in this or any other state. It must meet the capitalization, recordkeeping and other requirements for a certified reinsurer in this bill. Specifically, a certified reinsurer has to hold assets between 0 and 100% of its reinsurance obligations, depending on its financial stability.

This is an implementation of the 2011 Credit for Reinsurance Model Law and Regulations from the National Association of Insurance Commissioners.

1 **Reinsurer filings.** Clarifies that data relating to the certification of a reinsurer is governed by section 3 of this bill.

2 **Reinsurance credit allowed a domestic ceding insurer.**

Subd. 3. Accrediting assuming insurer. Makes technical changes.

Subd. 6. Single assuming insurer; trust fund requirements. Allows the commissioner of commerce to authorize a reduction in an assuming insurer's surplus, if the assuming insurer has permanently ceased underwriting new business for at least 3 years, and if the commissioner assess the risk and determines a new level of surplus is adequate. The minimum amount of surplus cannot be less than 30% of the assuming insurer's reinsurance liabilities.

Subd. 8. Incorporated insurers group; trust fund requirements. Makes technical change.

Subd. 10. Certification of assuming insurers in qualifying jurisdictions. Provides the requirements an assuming insurer must meet to be a certified reinsurer. Certification requirements are provided relating to: domiciling, capital, surplus, financial strength, jurisdiction, filing, rating, and securing obligations. Provides requirements for situations where the reinsurer's security is insufficient, certification has been terminated, it is certified in a different jurisdiction, the reinsurer ceases to do business in this state, and the effect on amended reinsurance contracts after the passage of this act.

Subd. 10a. Other jurisdictions. Provides that the ceding of reinsurance is allowed to an assuming insurer that doesn't meet the requirements of certain subdivisions to the extent that the insurance of risks is in jurisdictions where reinsurance is required by law.

Subd. 11. Reinsurance agreement requirements. Makes technical and conforming changes. Clarifies that the assuming insurer bears the credit risk for an intermediary.

Subd. 12. Concentration risk. Requires a ceding insurer to ensure its reinsurance is reasonable in relation to the amount of business it does and that the reinsurance is sufficiently diversified. Requires a ceding insurer to report to the commissioner of commerce if these conditions are not met.

Section

Subd. 13. Suspension or revocation by commissioner. Allows the commissioner to suspend a reinsurer's accreditation or certification if they no longer meet the qualifications necessary for that classification. Creates a process for the suspension.

3 **[60A.0921] Credit for reinsurance; certified reinsurers.**

Subd. 1. Certified reinsurers; credit allowed. Allows a domestic ceding insurer to receive credit for risk transferred to a certified reinsurer. A domestic ceding insurer can receive full credit for the reinsurance if the certified reinsurance meets the collateralization requirements, which are based on the financial security rating of the reinsurer. Allows a certified reinsurer to defer posting security for a limited time period in relation to certain lines of insurance.

Subd. 2. Certification procedure. Creates a system for a reinsurer to apply to become certified and be assigned a risk rating (which relates to the amount of capitalization the reinsurer must have). Requires certified reinsurers to meet certain requirements relating to where they are domiciled, capital and surplus, and financial strength ratings from certain rating agencies.

Subd. 3. Change in rating or revocation of certification. Allows the commissioner to suspend, revoke, modify, or change the rating of, a certified reinsurer under certain circumstances.

Subd. 4. Qualified jurisdictions. Allows a certified reinsurer to be domiciled in a "qualified jurisdiction." A list of qualified jurisdictions is provided by the National Association of Insurance Commissioners, and can be added to by the commissioner of commerce.

Subd. 5. Recognition of certification issued by a NAIC-accredited jurisdiction. Requires the commissioner of commerce to recognize the certification of a reinsurer if the reinsurer is certified in an NAIC-accredited jurisdiction.

Subd. 6. Mandatory funding clause. Requires reinsurance contracts under this section to include a requirement that the reinsurer maintain sufficient security so that the ceding insurer does not receive a financial statement penalty.

Subd. 7. Commissioner requirement. Requires the commissioner of commerce to comply with reporting and notification requirements established by the NAIC for certified reinsurers and qualified jurisdictions.

4 **Reduction from liability for reinsurance ceded by a domestic insurer; collateral requirements.**

Subd. 1. Reduction allowed. Makes technical changes.

5 **Qualifying letters of credit.**

Subd. 6. Governing law. Makes technical changes.

Subd. 7. Extensions. Makes technical changes.

Subd. 8. Issuance or confirmation. Repeals the requirement that a letter of credit be issued or confirmed by a qualified U.S. financial institution.

Section

Subd. 9. Additional requirements. Makes technical changes.

Subd. 12. Existing documents. Repeals obsolete language.

6 **Qualifying trust agreements.**

Subd. 2. Definitions. Clarifies that “obligations” excludes obligations that are otherwise acceptably secured.

Subd. 3. Required conditions. Makes technical changes. Clarifies that assets in trusts under this section must meet the requirements of section 60A.093, subdivision 1, and must be valued at current fair market value. Allows for reinsurance agreements to specify investments, and requires reinsurance agreements that cover certain risks to include the requirements of this paragraph. Requires that if a letter of credit will expire without being renewed or replaced, the trustee must draw down an amount equal to that of the letter of credit and hold the proceeds for the beneficiary.

Subd. 5. Additional conditions applicable to reinsurance agreements. Makes technical changes. Requires assets to be valued at current fair market value.

Subd. 7. Existing agreements. Repeals obsolete language.

7 **Effective date.** Sections 1 to 6 are effective January 1, 2019. Letters of credit already in place are acceptable until December 31, 2019.