

HB 133 -- REINSURANCE

This bill changes the laws regarding the accreditation requirements for reinsurance companies in order to comply with the federal Nonadmitted and Reinsurance Reform Act of 2010 that became effective July 21, 2011. In its main provisions, the bill:

(1) Modifies the requirements for a reinsurer to be eligible for accreditation by requiring the reinsurer to demonstrate to the Director of the Department of Insurance, Financial Institutions and Professional Registration that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. An assuming insurer is deemed to meet the requirement at the time of its application if it maintains a surplus regarding policyholders in an amount not less than \$20 million and its accreditation has not been denied by the director within 90 days after submission of its application;

(2) Allows the director with principal regulator oversight of a trust to authorize a reduction in the required statutory trustee surplus at any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years but a finding based on an assessment risk that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review and must consider all material risk factors. The minimum required trustee surplus must not be reduced to an amount less than 30% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust;

(3) Requires credit to 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 specified requirements. In order to be eligible for certification, an assuming insurer must:

(a) Be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction as determined by the director;

(b) Maintain minimum capital and surplus, or its equivalent, in an amount to be determined by the director by rule;

(c) Maintain financial strength ratings from two or more acceptable rating agencies deemed acceptable by the director by rule;

(d) Submit to the jurisdiction of Missouri, appoint the director

as its agent for service of process in this state, and agree to provide security for 100% of its liabilities attributable to reinsurance ceded by United States ceding insurers if it resists enforcement of a final United States judgment;

(e) Agree to specified informational filing requirements as determined by the director; and

(f) Satisfy any other requirements deemed relevant by the director;

(4) Specifies that an association, including an incorporated and an individual unincorporated underwriter, may be a certified reinsurer if it meets the above requirements and it:

(a) Satisfies its minimum capital and surplus requirements through the capital and surplus equivalents of the association and its members, including 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;

(b) Prohibits incorporated members of the association from engaging in any business other than underwriting as a member of the association and subjects the incorporated members to the same level of regulation and solvency control by the association's domiciliary regulator as the unincorporated members; and

(c) Provides, within 90 days after its financial statements are due to be filed with the association's domiciliary regulator, to the director 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;

(5) Requires the director to create and publish a list of qualified jurisdictions under which an assuming insurer licensed and domiciled in the jurisdiction is eligible to be considered for certification by the director as a certified reinsurer. To determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the director must evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction and consider the rights, benefits, and extent of reciprocal recognition afforded to reinsurers licensed and domiciled in the United States. A qualified jurisdiction must agree to share information and cooperate with the director with respect to all certified reinsurers domiciled within that

jurisdiction. A jurisdiction must not be recognized as a qualified jurisdiction if the director has determined that it does not adequately and promptly enforce final United States judgments and arbitration awards. Additional factors may be considered at the discretion of the director;

(6) Allows the director to consider a list of qualified jurisdictions published by the National Association of Insurance Commissioners (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 indefinitely in lieu of revocation;

(7) Requires the director to assign a rating to each certified reinsurer giving due consideration to the financial strength ratings that have been assigned by rating agencies deemed acceptable to the director by rule. The director must publish a list of all certified reinsurers and their ratings;

(8) Specifies that a certified reinsurer maintaining a multi-beneficiary trust to secure its obligations must maintain separate trust accounts for its obligations incurred under the reinsurance agreements. It must be a condition to the grant of certification that the certified reinsurer must have bound itself by the language of the trust and agreement with the director with principal regulatory oversight of each trust account to fund, upon termination of the trust account, out of the remaining surplus of the trust any deficiency of any other trust account;

(9) Requires with respect to obligations incurred by a certified reinsurer in a multibeneficiary trust, the director to order the certified reinsurer to provide sufficient security for the incurred obligations within 30 days if the security is insufficient. If the reinsurer fails to do so, the director can allow credit in the amount of the required security for one year. Following the one-year period, the director must 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;

(10) Specifies that if an applicant for certification has been certified as a reinsurer in an NAIC-accredited jurisdiction, the director can defer to that jurisdiction's certification and to the rating assigned by that jurisdiction, and the assuming insurer will be considered to be a certified reinsurer in this state;

(11) 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. An inactive reinsurer must continue to comply with all applicable requirements, and the director must assign a rating the takes into account, if relevant, the reasons why the reinsurer is not assuming new business;

(12) Allows the director to suspend or revoke a reinsurer's accreditation or certification if the 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 must not be effective until after the hearing with specified exceptions. The bill specifies the effects of a suspension or revocation upon the eligibility for granting credit for reinsurance; and

(13) 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. A domestic ceding insurer must 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 notification must demonstrate that the exposure is safely managed by the domestic ceding insurer. A ceding insurer must take steps to diversify its reinsurance program. A domestic ceding insurer must 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 the limit. The notification must demonstrate that the exposure is safely managed by the domestic ceding insurer.

The bill becomes effective January 1, 2014.