

SB 2864 -- Redline

Introduced to Engrossed -- INS CD-DOMESTIC CEDING INSURER

Deletions ~~struck~~ · Insertions underlined

~~*LRB09719020RPM63252b* - SB2864 07TH Engrossed GENERAL LRB097 ASSEMBLY 18029 State RPM of 63252 Illinois b and AN 2012 ACT SB2864 concerning Introduced insurance. 1/24/2012, by Sen.~~

~~Antonio Munoz SYNOPSIS AS INTRODUCED:~~

~~ILCS 5/173.1 from Ch.~~

~~73, par.~~

~~785.1 Amends the Illinois Insurance Code in the provision concerning credit that is allowed a domestic ceding insurer.~~

~~Includes additional provisions under which credit shall be allowed when the reinsurance is ceded to an assuming insurer domiciled in certain categories of states.~~

~~Includes additional requirements to apply to certain categories of assuming insurers.~~

~~Makes changes to the provision concerning the inception, amendment, and renewal dates of reinsurance agreements.~~

~~Includes additional provisions under which credit shall be allowed when the reinsurance is ceded to an assuming insurer certified in the State.~~

~~Sets forth provisions concerning the suspension and revocation of a reinsurer's accreditation or certification, the concentration of risk, and applicability to reinsurance agreements.~~

~~Makes other changes.~~

~~LRB097 18020 RPM 63252 b A BILL FOR SB2864 LRB097 18029 RPM 63252 b AN ACT concerning insurance.~~

Credit shall be allowed under subdivision subsection (1)(B-5) or (C) of this Section only if the applicable requirements of subdivision subsection (1)(E) SB2864 Engrossed - 2 - LRB097 18029 RPM 63252 b have been satisfied.

No credit shall be allowed a domestic ceding insurer, SB2864 Engrossed - 3 - LRB097 18029 RPM 63252 b if the assuming insurers' accreditation has been revoked by the Director after notice and hearing.

The assuming insurer shall report to the Director information substantially the same as that required to be reported on the NAIC annual SB2864 Engrossed - 4 - LRB097 18029 RPM 63252 b and quarterly financial statement by authorized insurers and any other financial information that the Director deems necessary to determine the financial condition of the assuming insurer and the sufficiency of the trust fund.

The trust shall vest legal title to its assets in its trustees for the benefit of the assuming insurer's United States policyholders and ceding insureds and their assigns SB2864 Engrossed - 5 - LRB097 18029 RPM 63252 b and successors in interest.

(a-5) At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least 3 full SB2864 Engrossed - 6 - LRB097 18029 RPM 63252 b years, the Director with principal regulatory oversight of the trust may authorize a reduction in the required trustee surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of U.S.

(I) for reinsurance ceded under reinsurance agreements with an inception, amendment, or renewal date on or after January SB2864 Engrossed - 7 - LRB097 18029 RPM 63252 b 1, 1993 August 1, 1995, the trust shall consist of a trustee account in an amount not less than the respective underwriters' group's several liabilities attributable to business ceded by U.S.

(ii) The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation SB2864 Engrossed - 8 - LRB097 18029 RPM 63252 b and control by the group's domiciliary regulator as are the unincorporated members.

SB2864 Engrossed - 9 - LRB097 18029 RPM 63252 b (iv) in addition, maintain a joint trustee surplus of which not less than \$100,000,000 shall be held jointly for the benefit of the United States ceding insurers of any member of the group as additional security for these liabilities;

(a) the assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the Director pursuant to subparagraph (3) of this SB2864 Engrossed - 10 - LRB097 18029 RPM 63252 b paragraph;

(2) An association, including incorporated and individual unincorporated underwriters, may be a SB2864 Engrossed - 11 - LRB097 18029 RPM 63252 b certified reinsurer.

and (c) within 90 days after its financial statements are due to be filed with the association's domiciliary regulator, the association shall provide to the Director an annual certification by the association's domiciliary regulator of the solvency of each SB2864 Engrossed - 12 - LRB097 18029 RPM 63252 b underwriter member;

A jurisdiction may not be recognized as a qualified jurisdiction if the Director has determined that the jurisdiction does not adequately and promptly SB2864 Engrossed - 13 - LRB097 18029 RPM 63252 b enforce final U.S.

The Director shall publish a SB2864 Engrossed - 14 - LRB097 18029 RPM 63252 b list of all certified reinsurers and their ratings.

(a) In order for a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security in a form acceptable to the Director and consistent with the provisions of subparagraph (3) of this paragraph (C-5), or in a multibeneficiary trust in accordance with paragraph (C) of this subsection ~~(1)~~(1), except as otherwise provided in this subparagraph (5).

jurisdictions and SB2864 Engrossed - 15 - LRB097 18029 RPM 63252 b for its obligations subject to paragraph (C) of this subsection ~~(1)~~(1).

It shall be a condition to the grant of certification under paragraph (C-5) of this subsection ~~(1)~~(1) that the certified reinsurer shall have bound itself, by the language of the trust and agreement with the Director with principal regulatory oversight of each such trust account, 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.

(d) With respect to obligations incurred by a certified reinsurer under this subsection, if the security is insufficient, then the Director shall reduce the allowable credit by an amount proportionate to the deficiency, and has the discretion to impose further reductions in allowable credit upon finding that there is a material risk that the certified reinsurer's SB2864 Engrossed - 16 - LRB097 18029 RPM 63252 b obligations will not be paid in full when due.

(7) A certified reinsurer that ceases to assume new business in this State may request to maintain its certification in inactive status in order to continue to qualify for a reduction in security for its in-force SB2864 Engrossed - 17 - LRB097 18029 RPM 63252 b business.

and SB2864 Engrossed - 18 - LRB097 18029 RPM 63252 b (2) to designate the Director or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding company.

(1) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by subsection (C)(3) of this Section or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the state official with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the state official with regulatory oversight all of the SB2864 Engrossed - 19 - LRB097 18029 RPM 63252 b assets of the trust fund.

SB2864 Engrossed - 20 - LRB097 18029 RPM 63252 b (a) the reinsurer waives its right to hearing;

SB2864 Engrossed - 21 - LRB097 18029 RPM 63252 b (1) A ceding insurer shall take steps to manage its reinsurance recoverable proportionate to its own book of business.

(2) Credit for the reinsurance ceded by a domestic insurer SB2864 Engrossed - 22 - LRB097 18029 RPM 63252 b to an assuming insurer not meeting the requirements of subsection (1) shall be allowed in an amount not exceeding the assets or liabilities carried by the ceding insurer.

The letters of credit shall be effective no later than December 31 of the year for which filing is being made, and in the possession of, or in trust for, the ceding company SB2864 Engrossed - 23 - LRB097 18029 RPM 63252 b on or before the filing date of its annual statement.

and SB2864 Engrossed - 24 - LRB097 18029 RPM 63252 b (4) is not affiliated with the assuming company.

(D) This amendatory Act of the 97th General Assembly shall apply to all cessions after the effective date of this amendatory Act of the 97th General Assembly under reinsurance agreements that have an inception, anniversary, or renewal date not less than 6 months after SB2864 Engrossed - 25 - LRB097 18029 RPM 63252 b the effective date of this amendatory Act of the 97th General Assembly.