

THE INSURANCE CODE OF 1956 (EXCERPT)
Act 218 of 1956

500.1125 Reinsurance agreement; use; execution; “reasonable period of time” defined; provisions; assumption of obligations by life and health insurance guaranty association.

Sec. 1125.

(1) Neither a reinsurance agreement nor any amendment to that agreement shall be used to reduce any liability or to establish any asset in any financial statement filed with the commissioner unless the agreement, amendment, or a binding letter of intent has been duly executed by the appropriate party no later than the filing date of the financial statement.

(2) A letter of intent, a reinsurance agreement, or an amendment to a reinsurance agreement shall be executed within a reasonable period of time in order for credit to be granted for the reinsurance ceded. As used in this subsection, "reasonable period of time" means that period of time as provided by the national association of insurance commissioners accounting practices and procedures manual and as approved by the commissioner.

(3) Except for facultative certificates duly executed by a property and casualty reinsurer or its duly appointed agent, a reinsurance agreement shall contain both of the following:

(a) That the agreement constitutes the entire agreement between the parties with respect to the business being reinsured thereunder and that there are no understandings between the parties other than as expressed in the agreement.

(b) That any change or modification to the agreement is null and void unless made by amendment to the agreement and signed by both parties.

(4) A ceding insurer shall not be allowed credit for reinsurance ceded as either an asset or a reduction from liability on account of reinsurance ceded, unless the reinsurance contract provides, in substance, that if the ceding insurer becomes insolvent, the reinsurance shall be payable pursuant to the terms of the reinsurance contract by the assuming insurer on the basis of reported claims allowed by the liquidation court, except as provided in subsection (6), without diminution because of the insolvency of the ceding insurer. The payments shall be made directly to the ceding insurer or its domiciliary liquidator unless the reinsurance contract requires or an endorsement signed by the reinsurer to the policies reinsured requires the reinsurer to make payment to the payees under the policies reinsured if the ceding insurer becomes insolvent.

(5) The reinsurance agreement may provide that the domiciliary liquidator of an insolvent ceding insurer shall give written notice to the assuming insurer of the pendency of a claim against the ceding insurer on the contract reinsured within a reasonable time after the claim is filed in the liquidation proceeding.

(6) If a life and health insurance guaranty association or its designated successor life or health insurer has assumed policy obligations as direct obligations of the insolvent ceding insurer and has succeeded to the rights of the insolvent insurer under the contract of reinsurance, then the reinsurer's liability shall continue under the contract of reinsurance and shall be payable pursuant to the direction of the guaranty association or its designated successor. As a condition to succeeding to the insolvent insurer's rights under the contract, the guaranty association or successor life or health insurer shall be responsible for premiums payable under the reinsurance contract for periods after the date of liquidation.

History: Add. 1994, Act 226, Imd. Eff. June 27, 1994 ;-- Am. 2000, Act 283, Imd. Eff. July 10, 2000 ;-- Am. 2008, Act 342, Imd. Eff. Dec. 23, 2008

Compiler's Notes: Enacting section 1 of Act 283 of 2000 provides: "Enacting section 1. The legislature declares that the provisions of this amendatory act are fundamental to the business of insurance as provided in sections 1 and 2 of chapter 20, popularly known as the McCarran-Ferguson act, 59 Stat. 33 and 34, 15 U.S.C. 1011 and 1012. It is the intent of this amendatory act that upon the insolvency of an alien insurer or reinsurer that provides security to fund its United States obligations under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, the assets representing the security shall be maintained in the United States and claims shall be filed with and valued by the state insurance commissioner with regulatory oversight, and the assets shall be distributed under the insurance laws of the state where the trust is domiciled that are applicable to the liquidation of domestic United States insurance companies."

Popular Name: Act 218