

191—113.14(521J) Reinsurance.

113.14(1) A captive company authorized to do business in this state may take credit for reserves on risk ceded to a reinsurer subject to the following requirements:

a. No credit shall be allowed for reinsurance where the reinsurance contract does not result in the complete transfer of the risk or liability to the reinsurer.

b. No credit shall be allowed, as an asset or a deduction from liability, to any ceding insurer for reinsurance unless the reinsurance is payable by the assuming insurer based on the liability of the ceding insurer under the contract reinsured without diminution because of the insolvency of the ceding insurer.

113.14(2) Reinsurance contracts shall be executed in writing setting forth the terms, provisions and conditions governing the reinsurance.

113.14(3) Copies of all reinsurance treaties and contracts will be filed and approved by the commissioner.

113.14(4) Reinsurance requirements for captive risk retention groups.

a. Permitted reinsurance.

(1) Captive risk retention groups shall not receive financial statement credit if all policies are ceded through 100 percent reinsurance arrangements, or any lesser percentage as determined in the sole discretion of the commissioner; and

(2) Credit for reinsurance will be permitted if the reinsurer complies with Iowa Code chapter 521B; or

(3) Credit for reinsurance will be permitted if the reinsurer maintains an A- or higher A.M. Best rating, or other comparable rating from a nationally recognized statistical rating organization; the reinsurer maintains minimum capital and surplus in an amount acceptable to the commissioner based upon a review of the reinsurer's most recent audited financial statements; and the reinsurer is licensed and domiciled in a jurisdiction acceptable to the commissioner; or

(4) Credit for reinsurance may be permitted if the reinsurer satisfies each of the following requirements and any other requirements deemed necessary by the commissioner:

1. The captive risk retention group shall file annually, on or before June 1, the reinsurer's audited financial statements, which shall be analyzed by the commissioner to assess the appropriateness of the reserve credit or the initial and continued financial condition of the reinsurer;

2. The reinsurer shall demonstrate to the satisfaction of the commissioner that it maintains a ratio of net written premium, wherever written, to surplus and capital of not more than three to one;

3. If the reinsurer is an affiliate of the captive risk retention group, the reinsurer shall not write third-party business without obtaining prior written approval from the commissioner. A reinsurer is affiliated, for the purpose of this subparagraph, with a risk retention group if more than 50 percent of the equity interests in such reinsurer are owned, directly or indirectly, by one or more of the members of the captive risk retention group;

4. The reinsurer shall not use cell arrangements without obtaining prior written approval from the commissioner;

5. The reinsurer shall be licensed and domiciled in a jurisdiction acceptable to the commissioner; and

6. The reinsurer shall submit to the examination authority of the commissioner.

b. The commissioner shall either require a reinsurer not domiciled in the United States to include language in the reinsurance agreement that states that in the event of the reinsurer's failure to perform its obligations under the terms of its reinsurance agreement, it shall submit to the jurisdiction of any court of competent jurisdiction in the United States, or shall require compliance with paragraph 113.14(4) "c."

c. For credit for reinsurance and solvency regulatory purposes, the commissioner may require an approved funds-held agreement, letter of credit, trust or other acceptable collateral based on unearned premium, loss and loss adjustment expense reserves, and incurred but not reported claims.

d. Upon application, the commissioner may waive either of the reinsurance requirements in subparagraph 113.14(4) "a"(2) or numbered paragraph 113.14(4) "a"(4) "6" in circumstances where the captive risk retention group or reinsurer can demonstrate to the satisfaction of the commissioner that the reinsurer is sufficiently capitalized based upon an annual review of the reinsurer's most recent

audited financial statements, the reinsurer is licensed and domiciled in a jurisdiction satisfactory to the commissioner, and the proposed reinsurance agreement adequately protects the captive risk retention group and its policyholders. Any such waiver should be included in the plan of operation, or any subsequent revision or amendment of the plan, pursuant to Section 3902(d)(1) of the Federal Liability Risk Retention Act of 1986, and the plan must be submitted by the risk retention group licensed as a captive to the commissioner of its state of domicile and each state in which the risk retention group licensed as a captive intends to do business or is currently registered. Any such waiver of a subrule 113.14(4) requirement constitutes a change in the risk retention group's plan of operation in each of those states.

e. Upon application, the commissioner may waive the requirement that a reinsurance arrangement must satisfy either paragraph 113.14(4) "b" or "c" in circumstances where the captive risk retention group or reinsurer can demonstrate to the satisfaction of the commissioner that the reinsurer is sufficiently capitalized based upon an annual review of the reinsurer's most recent audited financial statements, the reinsurer is licensed and domiciled in a jurisdiction satisfactory to the commissioner, and the proposed reinsurance agreement adequately protects the captive risk retention group and its policyholders. Any such waiver should be disclosed in Note 1 of the risk retention group's annual statutory financial statement.

f. Each approved captive manager or captive risk retention group shall assess the reinsurance programs of the risk retention groups licensed as captives under their management, and within 90 days of May 22, 2024, submit a written report to the commissioner indicating whether such risk retention groups licensed as captives are compliant with these rules. All captive risk retention groups failing to submit the report in a timely manner shall be examined, at the captive risk retention group's expense, to determine compliance with these rules.

g. Captive risk retention groups that require additional time to comply with these rules shall be permitted to take credit for reinsurance for risks ceded to reinsurers not in compliance with these rules for a period not to exceed 12 months from May 22, 2024, and contingent upon satisfactory demonstration to the commissioner that such delay of implementation will not cause a hazardous financial condition or potential harm to its member policyholders.

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