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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 4799

04/21/2022

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The bill was read for the first time and referred to the Committee on Commerce Finance and Policy

1.1 A bill for an act
1.2 relating to insurance; providing for term and universal life insurance reserve
1.3 financing; proposing coding for new law in Minnesota Statutes, chapter 61A.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. 61A.259 **TERM AND UNIVERSAL LIFE INSURANCE RESERVE**
1.6 **FINANCING.**

1.7 Subdivision 1. Definitions. (a) For purposes of this section, the following terms have
1.8 the meanings given.

1.9 (b) "Actuarial method" means the methodology used to determine the required level of
1.10 primary security, as described in subdivision 4.

1.11 (c) "Covered policies" means, subject to the exemptions described in subdivision 3,
1.12 those policies, other than grandfathered policies, of the following types:

1.13 (1) life insurance policies with guaranteed nonlevel gross premiums or guaranteed
1.14 nonlevel benefits, except for flexible premium universal life insurance policies; or

1.15 (2) flexible premium universal life insurance policies with provisions resulting in the
1.16 ability of a policyholder to keep a policy in force over a secondary guarantee period.

1.17 (d) "Grandfathered policies" means policies of the types described in paragraph (c) that
1.18 were:

1.19 (1) issued prior to January 1, 2015; and

1.20 (2) ceded, as of December 31, 2014, as part of a reinsurance treaty that would not have
1.21 met one of the exemptions set forth in subdivision 3 had subdivision 3 then been in effect.

2.1 (e) "NAIC" means the National Association of Insurance Commissioners.

2.2 (f) "Noncovered policies" means any policy that does not meet the definition of covered
2.3 policies, including grandfathered policies.

2.4 (g) "Required level of primary security" means the dollar amount determined by applying
2.5 the actuarial method to the risks ceded with respect to covered policies, but not more than
2.6 the total reserve ceded.

2.7 (h) "Primary security" means the following forms of security:

2.8 (1) cash meeting the requirements of section 60A.093, subdivision 1;

2.9 (2) securities listed by the Securities Valuation Office meeting the requirements of
2.10 section 60A.093, subdivision 1, but excluding any synthetic letter of credit, contingent note,
2.11 credit-linked note or other similar security that operates in a manner similar to a letter of
2.12 credit, and excluding any securities issued by the ceding insurer or any of its affiliates; and

2.13 (3) for security held in connection with funds-withheld and modified coinsurance
2.14 reinsurance treaties:

2.15 (i) commercial loans in good standing of CM3 quality and higher;

2.16 (ii) policy loans; and

2.17 (iii) derivatives acquired in the normal course and used to support and hedge liabilities
2.18 pertaining to the actual risks in the policies ceded pursuant to the reinsurance treaty.

2.19 (i) "Other security" means any security acceptable to the commissioner other than security
2.20 meeting the definition of primary security.

2.21 (j) "Valuation manual" means the valuation manual adopted by the NAIC as described
2.22 in section 61A.25, subdivision 10, with all amendments adopted by the NAIC that are
2.23 effective for the financial statement date on which credit for reinsurance is claimed.

2.24 (k) "VM-20" has the meaning given to "Requirements for Principle-Based Reserves for
2.25 Life Products," including all relevant definitions, in the valuation manual.

2.26 Subd. 2. **Applicability.** This section applies to reinsurance treaties that cede liabilities
2.27 pertaining to covered policies, as that term is defined in subdivision 1, paragraph (c), issued
2.28 by any life insurance company domiciled in this state. This section and sections 60A.091
2.29 to 60A.094 shall both apply to such reinsurance treaties; provided, that in the event of a
2.30 direct conflict between the provisions of this section and sections 60A.091 to 60A.094, the
2.31 provisions of this section shall apply, but only to the extent of the conflict.

3.1 Subd. 3. Exemptions. (a) This section does not apply to reinsurance of:

3.2 (1) policies that satisfy the criteria for exemption under section 60A.125, subdivision
3.3 6, which are issued before the later of:

3.4 (i) the effective date of this section; and

3.5 (ii) the date on which the ceding insurer begins to apply the provisions of VM-20 to
3.6 establish the ceded policies' statutory reserves, but in no event later than January 1, 2020;

3.7 (2) portions of policies that satisfy the criteria for exemption set forth in section 61A.25,
3.8 subdivision 6, and which are issued before the later of:

3.9 (i) the effective date of this section; and

3.10 (ii) the date on which the ceding insurer begins to apply the provisions of VM-20 to
3.11 establish the ceded policies' statutory reserves, but in no event later than January 1, 2020;

3.12 (3) a universal life policy that meets all of the following requirements:

3.13 (i) the secondary guarantee period, if any, is five years or less;

3.14 (ii) the specified premium for the secondary guarantee period is not less than the net
3.15 level reserve premium for the secondary guarantee period based on the Commissioners
3.16 Standard Ordinary valuation tables and valuation interest rate applicable to the issue year
3.17 of the policy; and

3.18 (iii) the initial surrender charge is not less than 100 percent of the first year annualized
3.19 specified premium for the secondary guarantee period;

3.20 (4) credit life insurance;

3.21 (5) any variable life insurance policy that provides for life insurance, the amount or
3.22 duration of which varies according to the investment experience of any separate account or
3.23 accounts; or

3.24 (6) any group life insurance certificate unless the certificate provides for a stated or
3.25 implied schedule of maximum gross premiums required in order to continue coverage in
3.26 force for a period in excess of one year.

3.27 (b) This section does not apply to reinsurance ceded to an assuming insurer that meets
3.28 the applicable requirements of section 60A.092, subdivision 5.

3.29 (c) This section does not apply to reinsurance ceded to an assuming insurer that meets
3.30 the applicable requirements of section 60A.091 and:

4.1 (1) prepares statutory financial statements in compliance with the NAIC Accounting
4.2 Practices and Procedures Manual, without any departures from NAIC statutory accounting
4.3 practices and procedures pertaining to the admissibility or valuation of assets or liabilities
4.4 that increase the assuming insurer's reported surplus and are material enough that they need
4.5 to be disclosed in the financial statement of the assuming insurer pursuant to Statement of
4.6 Statutory Accounting Principles No. 1 ("SSAP 1"); and

4.7 (2) is not in a company action level event, regulatory action level event, authorized
4.8 control level event, or mandatory control level event, as those terms are defined in section
4.9 60A.60, when its risk-based capital is calculated in accordance with the life risk-based
4.10 capital report including overview and instructions for companies, as the same may be
4.11 amended by the NAIC from time to time, without deviation.

4.12 (d) This section does not apply to reinsurance ceded to an assuming insurer that meets
4.13 the applicable requirements of section 60A.091 and that, in addition:

4.14 (1) is not an affiliate, as that term is defined in section 60D.15, of:

4.15 (i) the insurer ceding the business to the assuming insurer; or

4.16 (ii) any insurer that directly or indirectly ceded the business to that ceding insurer;

4.17 (2) prepares statutory financial statements in compliance with the NAIC Accounting
4.18 Practices and Procedures Manual;

4.19 (3) is both:

4.20 (i) licensed or accredited in at least ten states, including its state of domicile; and

4.21 (ii) not licensed in any state as a captive, special purpose vehicle, special purpose financial
4.22 captive, special purpose life reinsurance company, limited purpose subsidiary, or any other
4.23 similar licensing regime; and

4.24 (4) is not, or would not be, below 500 percent of the authorized control level risk-based
4.25 capital, as that term is defined in section 60A.60, when its risk-based capital is calculated
4.26 in accordance with the life risk-based capital report including overview and instructions for
4.27 companies, as the same may be amended by the NAIC from time to time, without deviation,
4.28 and without recognition of any departures from NAIC statutory accounting practices and
4.29 procedures pertaining to the admission or valuation of assets or liabilities that increase the
4.30 assuming insurer's reported surplus.

4.31 (e) This section does not apply to reinsurance ceded to an assuming insurer that meets
4.32 the requirements of section 60A.091.

5.1 (f) This section does not apply to reinsurance not otherwise exempt under paragraphs
5.2 (a) to (e) if the commissioner, after consulting with the NAIC Financial Analysis Working
5.3 Group or other group of regulators designated by the NAIC, as applicable, determines under
5.4 all the facts and circumstances that all of the following apply:

5.5 (1) the risks are clearly outside of the intent and purpose of this section;

5.6 (2) the risks are included within the scope of this statute only as a technicality; and

5.7 (3) the application of this section to those risks is not necessary to provide appropriate
5.8 protection to policyholders.

5.9 (g) The commissioner shall publicly disclose any decision made pursuant to paragraph
5.10 (f) to exempt a reinsurance treaty from this section, as well as the general basis therefor,
5.11 and including a summary description of the treaty.

5.12 Subd. 4. **Actuarial method; calculation valuation.** (a) The actuarial method to establish
5.13 the required level of primary security for each reinsurance treaty subject to this section shall
5.14 be VM-20, applied on a treaty-by-treaty basis, including all relevant definitions, from the
5.15 valuation manual as then in effect, applied as follows:

5.16 (1) for covered policies described in subdivision 1, paragraph (c), clause (1), the actuarial
5.17 method is the greater of the deterministic reserve or the net premium reserve (NPR) regardless
5.18 of whether the criteria for exemption testing can be met. However, if the covered policies
5.19 do not meet the requirements of the stochastic reserve exclusion test in the valuation manual,
5.20 then the actuarial method is the greatest of the deterministic reserve, the stochastic reserve,
5.21 or the NPR. In addition, if such covered policies are reinsured in a reinsurance treaty that
5.22 also contains covered policies described in subdivision 1, paragraph (c), clause (2), the
5.23 ceding insurer may elect to instead use clause (2) as the actuarial method for the entire
5.24 reinsurance agreement. Whether clause (1) or (2) is used, the actuarial method must comply
5.25 with any requirements or restrictions that the valuation manual imposes when aggregating
5.26 these policy types for purposes of principle-based reserve calculations;

5.27 (2) for covered policies described in subdivision 1, paragraph (c), clause (2), the actuarial
5.28 method is the greatest of the deterministic reserve, the stochastic reserve, or the NPR
5.29 regardless of whether the criteria for exemption testing can be met;

5.30 (3) except as provided in clause (4), the actuarial method is to be applied on a gross
5.31 basis to all risks with respect to the covered policies as originally issued or assumed by the
5.32 ceding insurer;

6.1 (4) if the reinsurance treaty cedes less than 100 percent of the risk with respect to the
6.2 covered policies, then the required level of primary security may be reduced as follows:

6.3 (i) if a reinsurance treaty cedes only a quota share of some or all of the risks pertaining
6.4 to the covered policies, the required level of primary security, as well as any adjustment
6.5 under item (iii), may be reduced to a pro rata portion in accordance with the percentage of
6.6 the risk ceded;

6.7 (ii) if the reinsurance treaty in a nonexempt arrangement cedes only the risks pertaining
6.8 to a secondary guarantee, the required level of primary security may be reduced by an
6.9 amount determined by applying the actuarial method on a gross basis to all risks, other than
6.10 risks related to the secondary guarantee, pertaining to the covered policies, except that for
6.11 covered policies for which the ceding insurer did not elect to apply the provisions of VM-20
6.12 to establish statutory reserves, the required level of primary security may be reduced by the
6.13 statutory reserve retained by the ceding insurer on those covered policies, where the retained
6.14 reserve of those covered policies should be reflective of any reduction pursuant to the cession
6.15 of mortality risk on a yearly renewable term basis in an exempt arrangement;

6.16 (iii) if a portion of the covered policy risk is ceded to another reinsurer on a yearly
6.17 renewable term basis in an exempt arrangement, the required level of primary security may
6.18 be reduced by the amount resulting by applying the actuarial method including the
6.19 reinsurance section of VM-20 to the portion of the covered policy risks ceded in the exempt
6.20 arrangement, except that for covered policies issued prior to January 1, 2017, this adjustment
6.21 is not to exceed $[cx / (2 * \text{number of reinsurance premiums per year})]$, where cx is calculated
6.22 using the same mortality table used in calculating the net premium reserve; and

6.23 (iv) for any other treaty ceding a portion of risk to a different reinsurer, including but
6.24 not limited to stop loss, excess of loss and other nonproportional reinsurance treaties, there
6.25 will be no reduction in the required level of primary security;

6.26 (5) in no event will the required level of primary security resulting from application of
6.27 the actuarial method exceed the amount of statutory reserves ceded;

6.28 (6) if the ceding insurer cedes risks with respect to covered policies, including any riders,
6.29 in more than one reinsurance treaty subject to this section, in no event will the aggregate
6.30 required level of primary security for those reinsurance treaties be less than the required
6.31 level of primary security calculated using the actuarial method as if all risks ceded in those
6.32 treaties were ceded in a single treaty subject to this section; and

6.33 (7) if a reinsurance treaty subject to this section cedes risk on both covered and
6.34 noncovered policies, credit for the ceded reserves shall be determined as follows:

7.1 (i) the actuarial method shall be used to determine the required level of primary security
7.2 for the covered policies, and subdivision 5 shall be used to determine the reinsurance credit
7.3 for the covered policy reserves; and

7.4 (ii) credit for the noncovered policy reserves shall be granted only to the extent that
7.5 security, in addition to the security held to satisfy the requirements of item (i), is held by
7.6 or on behalf of the ceding insurer in accordance with sections 60A.092 and 60A.093. Any
7.7 primary security used to meet the requirements of this item may not be used to satisfy the
7.8 required level of primary security for the covered policies.

7.9 (b) It is possible for any combination of paragraph (a), clause (4), items (i), (ii), (iii),
7.10 and (iv), to apply. Such adjustments to the required level of primary security will be done
7.11 in the sequence that accurately reflects the portion of the risk ceded via the treaty. The
7.12 ceding insurer should document the rationale and steps taken to accomplish the adjustments
7.13 to the required level of primary security due to the cession of less than 100 percent of the
7.14 risk. The adjustments for other reinsurance will be made only with respect to reinsurance
7.15 treaties entered into directly by the ceding insurer. The ceding insurer will make no
7.16 adjustment as a result of a retrocession treaty entered into by the assuming insurers.

7.17 (c) For the purposes of both calculating the required level of primary security pursuant
7.18 to the actuarial method and determining the amount of primary security and other security,
7.19 as applicable, held by or on behalf of the ceding insurer, the following apply:

7.20 (1) for assets, including any such assets held in trust, that would be admitted under the
7.21 NAIC Accounting Practices and Procedures Manual if they were held by the ceding insurer,
7.22 the valuations are to be determined according to statutory accounting procedures as if such
7.23 assets were held in the ceding insurer's general account and without taking into consideration
7.24 the effect of any prescribed or permitted practices; and

7.25 (2) for all other assets, the valuations are to be those that were assigned to the assets for
7.26 the purpose of determining the amount of reserve credit taken. In addition, the asset spread
7.27 tables and asset default cost tables required by VM-20 shall be included in the actuarial
7.28 method if adopted by the NAIC's Life Actuarial (A) Task Force no later than December 31
7.29 on or immediately preceding the valuation date for which the required level of primary
7.30 security is being calculated. The tables of asset spreads and asset default costs shall be
7.31 incorporated into the actuarial method in the manner specified in VM-20.

7.32 Subd. 5. Credit for reinsurance; requirements; opportunity for remediation. (a)
7.33 Subject to the exemptions described in subdivision 3 and the provisions of paragraphs (b)
7.34 to (d), credit for reinsurance shall be allowed with respect to ceded liabilities pertaining to

8.1 covered policies pursuant to sections 60A.092 and 60A.093 if, and only if, in addition to
8.2 all other requirements imposed by law or statute, the following requirements are met on a
8.3 treaty-by-treaty basis:

8.4 (1) the ceding insurer's statutory policy reserves with respect to the covered policies are
8.5 established in full and in accordance with the applicable requirements of section 61A.25
8.6 and related statutes and actuarial guidelines, and credit claimed for any reinsurance treaty
8.7 subject to this statute does not exceed the proportionate share of those reserves ceded under
8.8 the contract; and

8.9 (2) the ceding insurer determines the required level of primary security with respect to
8.10 each reinsurance treaty subject to this statute and provides support for its calculation as
8.11 determined to be acceptable to the commissioner; and

8.12 (3) funds consisting of primary security, in an amount at least equal to the required level
8.13 of primary security, are held by or on behalf of the ceding insurer, as security under the
8.14 reinsurance treaty within the meaning of section 60A.093, on a funds withheld, trust, or
8.15 modified coinsurance basis; and

8.16 (4) funds consisting of other security, in an amount at least equal to any portion of the
8.17 statutory reserves as to which primary security is not held pursuant to clause (3), are held
8.18 by or on behalf of the ceding insurer as security under the reinsurance treaty within the
8.19 meaning of section 60A.093; and

8.20 (5) any trust used to satisfy the requirements of this subdivision shall comply with all
8.21 of the conditions and qualifications of section 60A.0921, except that:

8.22 (i) funds consisting of primary security or other security held in trust, shall for the
8.23 purposes identified in subdivision 4, paragraph (c), be valued according to the valuation
8.24 rules set forth in subdivision 4, paragraph (c), as applicable;

8.25 (ii) there are no affiliate investment limitations with respect to any security held in such
8.26 trust if such security is not needed to satisfy the requirements of clause (3); and

8.27 (iii) the reinsurance treaty must prohibit withdrawals or substitutions of trust assets that
8.28 would leave the fair market value of the primary security within the trust, when aggregated
8.29 with primary security outside the trust that is held by or on behalf of the ceding insurer in
8.30 the manner required by clause (3), below 102 percent of the level required by clause (3) at
8.31 the time of the withdrawal or substitution; and

8.32 (iv) the determination of reserve credit under section 61A.25 shall be determined
8.33 according to the valuation rules set forth in subdivision 4, paragraph (c), as applicable; and

9.1 (6) the reinsurance treaty has been approved by the commissioner.

9.2 (b) The requirements of paragraph (a) must be satisfied as of the date that risks under
9.3 covered policies are ceded, if such date is on or after the effective date of this section, and
9.4 on an ongoing basis thereafter. Under no circumstances shall a ceding insurer take or consent
9.5 to any action or series of actions that would result in a deficiency under paragraph (a), clause
9.6 (3) or (4), with respect to any reinsurance treaty under which covered policies have been
9.7 ceded, and in the event that a ceding insurer becomes aware at any time that such a deficiency
9.8 exists, it shall use its best efforts to arrange for the deficiency to be eliminated as
9.9 expeditiously as possible.

9.10 (c) Prior to the due date of each quarterly or annual statement, each life insurance
9.11 company that has ceded reinsurance within the scope of subdivision 1 shall perform an
9.12 analysis, on a treaty-by-treaty basis, to determine, as to each reinsurance treaty under which
9.13 covered policies have been ceded, whether as of the valuation date at the end of the
9.14 immediately preceding calendar quarter the requirements of paragraph (a), clauses (3) and
9.15 (4), were satisfied. The ceding insurer shall establish a liability equal to the excess of the
9.16 credit for reinsurance taken over the amount of primary security actually held pursuant to
9.17 paragraph (a), clause (3), unless:

9.18 (1) the requirements of paragraph (a), clauses (3) and (4), were fully satisfied as of the
9.19 valuation date as to such reinsurance treaty; or

9.20 (2) any deficiency has been eliminated before the due date of the quarterly or annual
9.21 statement to which the valuation date relates through the addition of primary security or
9.22 other security, as the case may be, in such amount and in such form as would have caused
9.23 the requirements of paragraph (a), clauses (3) and (4), to be fully satisfied as of the valuation
9.24 date.

9.25 (d) Nothing in paragraph (c) shall be construed to allow a ceding company to maintain
9.26 any deficiency under paragraph (a), clause (3) or (4), for any period of time longer than is
9.27 reasonably necessary to eliminate it.

9.28 Subd. 6. **Severability.** If any provision of this section is held invalid, the remainder is
9.29 not affected.

9.30 Subd. 7. **Prohibition against avoidance.** No insurer that has covered policies as to
9.31 which this section applies, as set forth in subdivision 1, shall take any action or series of
9.32 actions, or enter into any transaction or arrangement or series of transactions or arrangements
9.33 if the purpose of such action, transaction or arrangement or series thereof is to avoid the
9.34 requirements of this statute, or to circumvent its purpose and intent.

- 10.1 **EFFECTIVE DATE.** This section is effective January 1, 2023, and applies to all covered
- 10.2 policies in effect on and after that date.