

**Michigan Office of Administrative Hearings and Rules
Administrative Rules Division (ARD)**

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REQUEST FOR RULEMAKING (RFR)

1. Department:

Insurance and Financial Services

2. Bureau:

Insurance

3. Promulgation type:

Full Process

4. Title of proposed rule set:

Credit for Reinsurance

5. Rule numbers or rule set range of numbers:

R 500.1122 through R 500.1133

6. Estimated time frame:

6 months

Name of person filling out RFR:

Julie Agueros

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7. Describe the general purpose of these rules, including any problems the changes are intended to address.

These rules were promulgated in 1996, following the enactment of Chapter 11 of the Insurance Code of 1956 (Code), MCL 500.1101 to 500.1127, to regulate reinsurance, which occurs when an insurer cedes a portion of its risk to another insurer that assumes the risk. See, generally, 1994 PA 226. These rules were amended in 2011 and 2019, following changes the National Association of Insurance Commissioners (NAIC) made to its model law and regulation and legislative amendments to the Code designed to bring Michigan into compliance with the NAIC model law and regulation. See 2018 PA 91. Specifically, these rules and Sections 1103, 1105, and 1106 of the Code, MCL 500.1103, 500.1105, and 500.1106, establish requirements for insurers to take credit, i.e., as an asset or reduction from liability, for reinsurance ceded to an assuming insurer. Section 1103 allows credit for reinsurance if ceded to an assuming insurer that meets any of subsections (2) through (6) of MCL 500.1103. The NAIC has made additional changes to its model law and regulation to facilitate the consistency of state law with the “covered agreement” entered by the United States on September 22, 2017, authorized under 31 USC 314. The changes to the NAIC models necessitate corresponding legislative amendments and amendments to these rules to provide for additional categories of assuming insurers that will provide the ceding insurer credit for the cession. The legislative amendments are contained within Senate Bill 1015’20 (PA 328 of 2020), which was signed by Governor Whitmer on December 29, 2020. These proposed rules would implement those legislative amendments.

8. Please cite the specific promulgation authority for the rules (i.e. department director, commission, board, etc.).

Section 1106 of the Code, MCL 500.1106, permits the Director of DIFS to promulgate rules regarding certain reinsurance agreements. Existing rules are also authorized under Section 1103 (6) of the Code, MCL 500.1103, and Section 1103, as amended by Senate Bill 1015, includes additional rulemaking authority. Furthermore, the Director is authorized to promulgate rules to effectuate and enforce the insurance laws of Michigan under Section 210 of the Code, MCL 500.210.

A. Please list all applicable statutory references (MCLs, Executive Orders, etc.).

MCL 500.210, MCL 500.1103, MCL 500.1106, and Executive Reorganization Order No. 2013-1, MCL 550.991.

B. Are the rules mandated by any applicable constitutional or statutory provision? If so, please explain.

Yes. Certain existing rules are mandated under Section 1103(6) of the Code, MCL 500.1103(6), and Senate Bill 1015 requires that the Director promulgate additional rules under Section 1103.

9. Please describe the extent to which the rules conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

These rules do not conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level, apart from their implementation of the NAIC model law and regulation, as explained above.

10. Is the subject matter of the rules currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?

No.

11. Are the rules listed on the department’s annual regulatory plan as rules to be processed for the current year?

Yes.

12. Will the proposed rules be promulgated under Section 44 of the Administrative Procedures Act, 1969 PA 306, MCL 24.244, or under the full rulemaking process?

Full Process

13. Please describe the extent to which the rules exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.

These rules do not exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level. As explained above, the proposed rules are intended to facilitate Michigan's compliance with the NAIC model law and regulation.

14. Do the rules incorporate the recommendations received from the public regarding any complaints or comments regarding the rules? If yes, please explain.

No.

15. If amending an existing rule set, please provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed the regulatory activity covered by the rules since the last evaluation.

These rules were last evaluated in 2018, which resulted in amendments effective in 2019 (2018-056-IF). As explained above, since these rules were last amended, the NAIC has amended its model law and regulation upon which these rules are based, and Senate Bill 1015 and these proposed rules implement the changes made to the NAIC model law and regulation.

16. Are there any changes or developments since implementation that demonstrate there is no continued need for the rules, or any portion of the rules?

No.

17. Is there an applicable decision record (as defined in MCL 24.203(6) and required by MCL 24.239(2))? If so, please attach the decision record.

No