

(15) Surplus lines broker

The term “surplus lines broker” means an individual, firm, or corporation which is licensed in a State to sell, solicit, or negotiate insurance on properties, risks, or exposures located or to be performed in a State with non-admitted insurers.

(16) State

The term “State” includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa.

(Pub. L. 111-203, title V, §527, July 21, 2010, 124 Stat. 1591.)

DEFINITIONS

For definitions of terms used in this section, see section 5301 of Title 12, Banks and Banking.

SUBCHAPTER II—REINSURANCE

§ 8221. Regulation of credit for reinsurance and reinsurance agreements**(a) Credit for reinsurance**

If the State of domicile of a ceding insurer is an NAIC-accredited State, or has financial solvency requirements substantially similar to the requirements necessary for NAIC accreditation, and recognizes credit for reinsurance for the insurer’s ceded risk, then no other State may deny such credit for reinsurance.

(b) Additional preemption of extraterritorial application of State law

In addition to the application of subsection (a), all laws, regulations, provisions, or other actions of a State that is not the domiciliary State of the ceding insurer, except those with respect to taxes and assessments on insurance companies or insurance income, are preempted to the extent that they—

- (1) restrict or eliminate the rights of the ceding insurer or the assuming insurer to resolve disputes pursuant to contractual arbitration to the extent such contractual provision is not inconsistent with the provisions of title 9;
- (2) require that a certain State’s law shall govern the reinsurance contract, disputes arising from the reinsurance contract, or requirements of the reinsurance contract;
- (3) attempt to enforce a reinsurance contract on terms different than those set forth in the reinsurance contract, to the extent that the terms are not inconsistent with this subchapter; or
- (4) otherwise apply the laws of the State to reinsurance agreements of ceding insurers not domiciled in that State.

(Pub. L. 111-203, title V, §531, July 21, 2010, 124 Stat. 1595.)

§ 8222. Regulation of reinsurer solvency**(a) Domiciliary State regulation**

If the State of domicile of a reinsurer is an NAIC-accredited State or has financial solvency requirements substantially similar to the requirements necessary for NAIC accreditation,

such State shall be solely responsible for regulating the financial solvency of the reinsurer.

(b) Nondomiciliary States**(1) Limitation on financial information requirements**

If the State of domicile of a reinsurer is an NAIC-accredited State or has financial solvency requirements substantially similar to the requirements necessary for NAIC accreditation, no other State may require the reinsurer to provide any additional financial information other than the information the reinsurer is required to file with its domiciliary State.

(2) Receipt of information

No provision of this section shall be construed as preventing or prohibiting a State that is not the State of domicile of a reinsurer from receiving a copy of any financial statement filed with its domiciliary State.

(Pub. L. 111-203, title V, §532, July 21, 2010, 124 Stat. 1595.)

§ 8223. Definitions

For purposes of this subchapter, the following definitions shall apply:

(1) Ceding insurer

The term “ceding insurer” means an insurer that purchases for reinsurance.

(2) Domiciliary State

The terms “State of domicile” and “domiciliary State” mean, with respect to an insurer or reinsurer, the State in which the insurer or reinsurer is incorporated or entered through, and licensed.

(3) NAIC

The term “NAIC” means the National Association of Insurance Commissioners or any successor entity.

(4) Reinsurance

The term “reinsurance” means the assumption by an insurer of all or part of a risk undertaken originally by another insurer.

(5) Reinsurer**(A) In general**

The term “reinsurer” means an insurer to the extent that the insurer—

- (i) is principally engaged in the business of reinsurance;
- (ii) does not conduct significant amounts of direct insurance as a percentage of its net premiums; and
- (iii) is not engaged in an ongoing basis in the business of soliciting direct insurance.

(B) Determination

A determination of whether an insurer is a reinsurer shall be made under the laws of the State of domicile in accordance with this paragraph.

(6) State

The term “State” includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa.