

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2490

54th Legislature
1996 Regular Session

Passed by the House March 7, 1996
Yeas 98 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate March 7, 1996
Yeas 47 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2490** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 2490

AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 1996 Regular Session

State of Washington 54th Legislature 1996 Regular Session

By Representatives L. Thomas, Dyer, Grant and Kessler

Read first time 01/11/96. Referred to Committee on Financial
Institutions & Insurance.

1 AN ACT Relating to credit for reinsured ceded risks; amending RCW
2 48.12.160; creating new sections; making an appropriation; providing an
3 effective date; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 48.12.160 and 1994 c 86 s 1 are each amended to read
6 as follows:

7 (1) Any insurance company organized under the laws of this state
8 may take credit as an asset or as a deduction from loss or claim,
9 unearned premium, or life policy or contract reserves on risks ceded to
10 a reinsurer to the extent reinsured by an insurer or insurers holding
11 a certificate of authority to transact that kind of business in this
12 state. The credit on ceded risks reinsured by any insurer which is not
13 authorized to transact business in this state may be taken:

14 (a) Where the reinsurer is a group including incorporated and
15 unincorporated underwriters, and the group maintains a trust fund in a
16 United States bank that is determined by the national association of
17 insurance commissioners to meet credit standards for issuing letters of
18 credit in connection with reinsurance, which trust fund must be in an
19 amount equal to the group's liabilities attributable to business

1 written in the United States, and in addition, the group shall maintain
2 a trustee surplus of which one hundred million dollars shall be held
3 jointly and exclusively for the benefit of United States ceding
4 insurers of any member of the group; the incorporated members of the
5 group shall not be engaged in any business other than underwriting as
6 a member of the group and shall be subject to the same level of
7 solvency regulation and control by the group's domiciliary regulator as
8 are the unincorporated members; and the group shall make available to
9 the commissioner an annual certification of the solvency of each
10 underwriter by the group's domiciliary regulator and its independent
11 public accountants; ((or))

12 (b) Where the reinsurer does not meet the definition of (a) of this
13 subsection, the reinsurer maintains a trust fund in a United States
14 bank that is determined by the national association of insurance
15 commissioners to meet credit standards for issuing letters of credit in
16 connection with reinsurance, which trust fund must be in an amount
17 equal to the reinsurer's liabilities attributable to reinsurance ceded
18 by United States domiciled insurers, and in addition, the assuming
19 insurer shall maintain a trustee surplus of not less than twenty
20 million dollars; or

21 (c) In an amount not exceeding:

22 (i) The amount of deposits by and funds withheld from the assuming
23 insurer pursuant to express provision therefor in the reinsurance
24 contract, as security for the payment of the obligations thereunder, if
25 the deposits or funds are assets of the types and amounts that are
26 authorized under chapter 48.13 RCW and are held subject to withdrawal
27 by and under the control of the ceding insurer or if the deposits or
28 funds are placed in trust for these purposes in a bank which is a
29 member of the federal reserve system and withdrawals from the trust
30 cannot be made without the consent of the ceding company; or

31 (ii) The amount of a clean, irrevocable, and unconditional letter
32 of credit issued by a United States bank that is determined by the
33 national association of insurance commissioners to meet credit
34 standards for issuing letters of credit in connection with reinsurance,
35 and issued for a term of at least one year with provisions that it must
36 be renewed unless the bank gives notice of nonrenewal at least thirty
37 days before the expiration issued under arrangements satisfactory to
38 the commissioner of insurance as constituting security to the ceding

1 insurer substantially equal to that of a deposit under (~~(b)~~) (c) (i)
2 of this subsection.

3 (2) Any reinsurance ceded by a company organized under the laws of
4 this state or ceded by any company not organized under the laws of this
5 state and transacting business in this state must be payable by the
6 assuming insurer on the basis of liability of the ceding company under
7 the contract or contracts reinsured without diminution because of the
8 insolvency of the ceding company, and any such reinsurance agreement
9 which may be canceled on less than ninety days notice must provide for
10 a run-off of the reinsurance in force at the date of cancellation.

11 (3) A reinsurance agreement may provide that the liquidator or
12 receiver or statutory successor of an insolvent ceding insurer shall
13 give written notice of the pendency of a claim against the insolvent
14 ceding insurer on the policy or bond reinsured within a reasonable time
15 after such claim is filed in the insolvency proceeding and that during
16 the pendency of such claim any assuming insurer may investigate such
17 claim and interpose, at its own expense, in the proceeding where such
18 claim is to be adjudicated, any defense or defenses which it may deem
19 available to the ceding insurer or its liquidator or receiver or
20 statutory successor.

21 The expense thus incurred by the assuming insurer shall be
22 chargeable subject to court approval against the insolvent ceding
23 insurer as a part of the expense of liquidation to the extent of a
24 proportionate share of the benefit which may accrue to the ceding
25 insurer solely as a result of the defense undertaken by the assuming
26 insurer.

27 (4) Where two or more assuming insurers are involved in the same
28 claim and a majority in interest elect to interpose to such claim, the
29 expense shall be apportioned in accordance with the terms of the
30 reinsurance agreement as though such expense had been incurred by the
31 ceding insurer.

32 NEW SECTION. **Sec. 2.** The insurance commissioner shall adopt rules
33 to implement and administer the amendatory changes made by section 1 of
34 this act.

35 NEW SECTION. **Sec. 3.** (1) The insurance commissioner shall conduct
36 a study to determine what rules or requirements are necessary to ensure

1 the safety, soundness, and regulatory oversight of the practice set
2 forth in section 1(1)(b) of this act.

3 (2) There is appropriated from the insurance commissioner's
4 regulatory account, over and above the appropriation for the insurance
5 commissioner for the fiscal year ending June 30, 1997, the sum of ten
6 thousand dollars, or as much thereof as may be necessary, for the
7 insurance commissioner to conduct the study in subsection (1) of this
8 section.

9 NEW SECTION. **Sec. 4.** (1) Sections 2 and 3 of this act are
10 necessary for the immediate preservation of the public peace, health,
11 or safety, or support of the state government and its existing public
12 institutions, and shall take effect immediately.

13 (2) Section 1 of this act shall take effect January 1, 1997.

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