

# HOUSE BILL REPORT

## SB 5048

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**As Passed House:**

April 9, 2021

**Title:** An act relating to reinsurance agreements.

**Brief Description:** Concerning reinsurance agreements.

**Sponsors:** Senators Mullet and Das; by request of Insurance Commissioner.

**Brief History:**

**Committee Activity:**

Consumer Protection & Business: 3/10/21, 3/11/21 [DP].

**Floor Activity:**

Passed House: 4/9/21, 96-1.

**Brief Summary of Bill**

- Establishes requirements for qualifying reinsurers located and licensed in reciprocal jurisdictions.

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### HOUSE COMMITTEE ON CONSUMER PROTECTION & BUSINESS

**Majority Report:** Do pass. Signed by 7 members: Representatives Kirby, Chair; Walen, Vice Chair; Vick, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Corry, Ryu and Santos.

**Staff:** Serena Dolly (786-7150).

**Background:**

National Association of Insurance Commissioners.

The National Association of Insurance Commissioners (NAIC) is an association composed of elected and appointed insurance regulators from the states and territories of the United

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States. The Office of the Insurance Commissioner (OIC) is a member of the NAIC.

The NAIC's Financial Regulation Standards and Accreditation Program establishes baseline standards for solvency regulation. States adopting laws, regulations, and requirements consistent with the NAIC's models may receive accreditation. Currently, all 50 states, the District of Columbia, and Puerto Rico are accredited.

#### Credit for Reinsurance.

Reinsurance is an insurance product purchased by an insurance company to pass some of the risk assumed by the insurance company to the reinsurer. The insurer that transfers the risk to the reinsurer is the ceding company. The reinsurer, the assuming company, accepts the risk. The ceding insurance company's exposure to financial loss is thereby reduced. Credit for reinsurance is an accounting procedure that permits a ceding company to treat amounts due from reinsurers as assets or reductions from liability. This improves the reported financial condition of the ceding insurance company in its annual statement. Credit for reinsurance is allowed only when specified standards, such as collateral, are met. In 2015 the state enacted the NAIC's Credit for Reinsurance Model Law.

#### Dodd-Frank Wall Street Reform and Consumer Protection Act, the Covered Agreements, and Federal Preemption.

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2011 allowed for bilateral agreements between the United States and the European Union and between the United States and the United Kingdom (the Covered Agreements) regarding qualifying reinsurers. The Covered Agreements prohibit collateral obligations from being applied to qualifying reinsurers. Effective September 22, 2022, the federal government may preempt any inconsistent state law that treats a qualified non-United States reinsurer under the Covered Agreements less favorably than a United States insurer licensed in the state.

In 2019 the NAIC adopted amendments to the Credit for Reinsurance Model Law (the 2019 Amendments) that reflect the Covered Agreements. States that do not adopt the 2019 Amendments will no longer qualify for the NAIC accreditation and may have their state laws regarding reinsurance preempted by the federal government.

#### **Summary of Bill:**

Reinsurers located and licensed in a reciprocal jurisdiction may provide reinsurance in accordance with the 2019 Amendments. A reciprocal jurisdiction is one that:

- is located outside the United States and subject to an in-force covered agreement with the United States;
- is located within a United States jurisdiction that meets requirements for accreditation by the NAIC's Financial Regulation Standards and Accreditation Program; or
- is a qualified jurisdiction as determined by the OIC under existing law.

In addition to being located and licensed in a reciprocal location, the reinsurer must meet

additional requirements including maintaining minimum capital and surplus requirements, meeting a minimum solvency or capital ratio, and sharing certain financial information with the OIC.

The OIC must create a list of reciprocal jurisdictions. The OIC must also list reinsurers that have satisfied the required conditions and to which cessions will be granted credit. A jurisdiction may be removed by the OIC if it no longer meets the necessary requirements. Upon removal, the credit for reinsurance ceded to a reinsurer will be allowed if otherwise allowed in state law.

Credit for reinsurance is allowed only for reinsurance agreements entered into, amended, or renewed on or after the effective date of this act, and only if the losses have occurred within a certain time period on or after the reinsurer met all their obligations. Losses must have been incurred, and reserves reported, when either the reinsurer met all eligibility requirements or on the effective date of the new reinsurance agreement, whichever is later.

The OIC may adopt rules applicable to reinsurance agreements for certain life and health insurance and annuity products where the NAIC adopts model regulatory requirements for reinsurance credit. Any rules adopted will not apply to cessions to a reinsurer that is located and licensed in a reciprocal jurisdiction and to which the Covered Agreements apply, is certified as a reinsurer under state law, or:

- maintains at least \$250 million in capital and surplus in accordance with the NAIC's Accounting Practices and Procedures Manual; and
- is licensed in at least 26 states or licensed and accredited in a total of at least 35 states and maintains licensure in at least 10 states.

Rules adopted by the OIC may require a ceding insurer, when calculating the amounts or forms of security required, to use the valuation model adopted by the NAIC. The authority to adopt rules regarding reinsurers is not limited otherwise by the OIC's general authority to adopt rules.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This bill improves the use of reinsurance, protects against insolvency, and brings the state into compliance with federal bilateral agreements. The bill also is necessary for the state to retain its accreditation by the NAIC. The NAIC accreditation sets a baseline standard for solvency in each of the accredited jurisdictions. This accreditation was

established to allow each state regulator to have confidence in the soundness and uniformity of the solvency supervision of an insurer located in any accredited state. Without the NAIC accreditation, Washington-based insurers would be subject to examinations, at the insurer's expense, by every other state that the company operates in. With accreditation, other states can rely on Washington to regulate insurers domiciled in the state.

(Opposed) None.

**Persons Testifying:** Senator Mullet, prime sponsor; David Forte and Jon Noski, Office of the Insurance Commissioner; and Mel Sorensen, American Property Casualty Insurance Association, American Council of Life Insurers, and America's Health Insurance Plans.

**Persons Signed In To Testify But Not Testifying:** None.