

ORIGINAL SENATE  
FILE NO. SF0014

ENROLLED ACT NO. 7, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
2021 GENERAL SESSION

AN ACT relating to insurance; amending provisions governing reinsurance; providing requirements and procedures for an assuming insurer of reinsurance as specified; providing requirements for the insurance commissioner; providing applicability; and providing for an effective date.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 26-5-112(a)(iv), by creating a new paragraph (vii) and by creating a new subsection (j) and 26-5-116(f) by creating a new paragraph (i) and renumbering (i) as (ii) and (ii) as (iii) are amended to read:

**26-5-112. Credit allowed a domestic ceding insurer.**

(a) Except as provided in W.S. 26-5-113, and in addition to any rules adopted by the commissioner pursuant to W.S. 26-5-116 relating to the valuation of assets or reserve credits, the amount and forms of security supporting reinsurance arrangements and the circumstances pursuant to which credit will be reduced or eliminated, credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only if the reinsurer meets the requirements of any one (1) of the following paragraphs:

(iv) The reinsurance is ceded to an assuming insurer not meeting the requirements of paragraphs (i) through (iii) or (v) through (vii) of this subsection but only with respect to the insurance of risks located in jurisdictions where such reinsurance is required by applicable law or regulation of that jurisdiction;

ORIGINAL SENATE  
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SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
2021 GENERAL SESSION

(vii) When the reinsurance is ceded to an assuming insurer in accordance with the following:

(A) The assuming insurer has its head office or is domiciled in a reciprocal jurisdiction, as applicable, and is licensed in a reciprocal jurisdiction;

(B) The assuming insurer has and maintains, on an ongoing basis, minimum capital and surplus, or its equivalent, calculated according to the methodology of its domiciliary jurisdiction in an amount specified in rules adopted by the commissioner. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it shall have and maintain, on an ongoing basis, minimum capital and surplus equivalents, which are net of liabilities, calculated according to the methodology applicable in its domiciliary jurisdiction and a central fund containing a balance in amounts specified in rules adopted by the commissioner;

(C) The assuming insurer has and maintains, on an ongoing basis, a minimum solvency or capital ratio, as applicable, as specified in rules adopted by the commissioner. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it shall have and maintain, on an ongoing basis, a minimum solvency or capital ratio in the reciprocal jurisdiction where the assuming insurer has its head office or is domiciled, as applicable, and is also licensed;

(D) The assuming insurer agrees and provides adequate assurance to the commissioner, in a form specified by rules adopted by the commissioner, that:

ORIGINAL SENATE  
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ENROLLED ACT NO. 7, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
2021 GENERAL SESSION

(I) The assuming insurer shall provide prompt written notice and explanation to the commissioner if it falls below the minimum requirements set forth in subparagraphs (B) or (C) of this paragraph, or if any regulatory action is taken against it for serious noncompliance with applicable law;

(II) The assuming insurer shall consent in writing to the jurisdiction of the courts of this state and to the appointment of the commissioner as agent for service of process. The commissioner may require that consent for service of process be provided to the commissioner and included in each reinsurance agreement. Nothing in this subdivision shall limit or in any way alter the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws;

(III) The assuming insurer shall consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer or its legal successor, that have been declared enforceable in the jurisdiction where the judgment was obtained;

(IV) Each reinsurance agreement shall require the assuming insurer to provide security in an amount equal to one hundred percent (100%) of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final judgment applicable to the reinsurance ceded pursuant to that agreement that is enforceable under the law of the jurisdiction in which it was obtained or a properly enforceable arbitration award,

ORIGINAL SENATE  
FILE NO. SF0014

ENROLLED ACT NO. 7, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
2021 GENERAL SESSION

whether obtained by the ceding insurer or by its legal successor on behalf of its resolution estate; and

(V) The assuming insurer shall confirm that it is not presently participating in any solvent scheme of arrangement which involves this state's ceding insurers. It shall also agree to notify the ceding insurer and the commissioner and to provide security in an amount equal to one hundred percent (100%) of the assuming insurer's liabilities to the ceding insurer should the assuming insurer enter into such a solvent scheme of arrangement. Such security shall be in a form consistent with the provisions of paragraph (vi) of this subsection, W.S. 26-5-113 and rules adopted by the commissioner.

(E) The assuming insurer or its legal successor shall provide, if requested by the commissioner, on behalf of itself and any legal predecessors, documentation to the commissioner as specified by rules adopted by the commissioner;

(F) The assuming insurer shall maintain a practice of prompt payment of claims under reinsurance agreements pursuant to criteria set forth in rules adopted by the commissioner;

(G) The assuming insurer's supervisory authority shall confirm to the commissioner on an annual basis, as of the preceding December 31 or at the annual date otherwise statutorily reported to the reciprocal jurisdiction, that the assuming insurer complies with the requirements set forth in subparagraphs (B) and (C) of this paragraph;

ORIGINAL SENATE  
FILE NO. SF0014

ENROLLED ACT NO. 7, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
2021 GENERAL SESSION

(H) Nothing in this paragraph precludes an assuming insurer from providing the commissioner with information on a voluntary basis;

(J) The commissioner shall timely create and publish a list of reciprocal jurisdictions. The commissioner's list shall include any reciprocal jurisdiction as defined under subparagraphs (j)(ii)(A) and (B) of this section and the commissioner shall consider adding any other reciprocal jurisdiction included on the NAIC list of reciprocal jurisdictions published through the NAIC committee process. The commissioner may approve a jurisdiction as a reciprocal jurisdiction that does not appear on the NAIC list of reciprocal jurisdictions in accordance with criteria specified in rules adopted by the commissioner. The commissioner may remove a jurisdiction from the list of reciprocal jurisdictions upon a determination that the jurisdiction no longer meets the requirements of a reciprocal jurisdiction, in accordance with a process set forth in rules adopted by the commissioner, except that the commissioner shall not remove from the list a reciprocal jurisdiction as defined under subparagraph (j)(ii)(A) or (B) of this section. Upon removal of a reciprocal jurisdiction from this list, credit for reinsurance ceded to an assuming insurer which has its home office or is domiciled in that jurisdiction shall be allowed if otherwise allowed pursuant to this chapter;

(K) The commissioner shall timely create and publish a list of assuming insurers that have satisfied all conditions set forth in this paragraph and to which cessions shall be granted credit in accordance with this subsection. The commissioner may add an assuming insurer to the list if an NAIC accredited jurisdiction has added the assuming insurer to a list of such assuming insurers or if,

ORIGINAL SENATE  
FILE NO. SF0014

ENROLLED ACT NO. 7, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
2021 GENERAL SESSION

upon initial eligibility, the assuming insurer submits the information to the commissioner as required under subparagraph (D) of this paragraph and complies with any additional requirements that the commissioner may impose by rule, except to the extent that they conflict with an applicable covered agreement;

(M) If the commissioner determines that an assuming insurer no longer meets one (1) or more of the requirements under this paragraph, the commissioner may revoke or suspend the eligibility of the assuming insurer for recognition under this paragraph in accordance with procedures set forth in rules adopted by the commissioner. While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer's obligations under the contract are secured in accordance with W.S. 26-5-113. If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into prior to the date of revocation, except to the extent that the assuming insurer's obligations under the contract are secured in a form acceptable to the commissioner and consistent with the provisions of W.S. 26-5-113;

(N) If subject to a legal process of rehabilitation, liquidation or conservation, as applicable, the ceding insurer or its representative may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring that the assuming insurer post security for all outstanding ceded liabilities;

ORIGINAL SENATE  
FILE NO. SF0014

ENROLLED ACT NO. 7, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
2021 GENERAL SESSION

(O) Nothing in this paragraph shall limit or in any way alter the capacity of parties to a reinsurance agreement to agree on requirements for security or other terms in that reinsurance agreement, except as expressly prohibited by this chapter or other applicable law or rule;

(P) Credit may be taken under this paragraph only for reinsurance agreements entered into, amended, or renewed on or after July 1, 2021 and only with respect to losses incurred and reserves reported on or after the later of the date on which the assuming insurer has met all eligibility requirements of this paragraph and the effective date of the new reinsurance agreement, amendment or renewal. This subparagraph does not alter or impair a ceding insurer's right to take credit for reinsurance, to the extent that credit is not available under this paragraph, as long as the reinsurance qualifies for credit under any other applicable provision of this chapter;

(Q) Nothing in this paragraph shall authorize an assuming insurer to withdraw or reduce the security provided under any reinsurance agreement except as permitted by the terms of the agreement;

(R) Nothing in this paragraph shall limit, or in any way alter, the capacity of parties to any reinsurance agreement to renegotiate the agreement.

(j) As used in this section:

(i) "Covered agreement" means an agreement entered into pursuant to the Dodd-Frank Wall Street Reform

ORIGINAL SENATE  
FILE NO. SF0014

ENROLLED ACT NO. 7, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
2021 GENERAL SESSION

and Consumer Protection Act, 31 U.S.C. §§ 313 and 314, that is currently in effect or in a period of provisional application and that addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this state or for allowing the ceding insurer to recognize credit for reinsurance;

(ii) "Reciprocal jurisdiction" means any of the following:

(A) A non-United States jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and the European Union, is a member state of the European Union;

(B) A United States jurisdiction that meets the requirements for accreditation under the NAIC financial standards and accreditation program;

(C) A qualified jurisdiction, as determined by the commissioner pursuant to subparagraph (a)(vi)(C) of this section, that is not otherwise described in subparagraphs (A) or (B) of this paragraph and that meets certain additional requirements, consistent with the terms and conditions of in-force covered agreements, as specified in rules adopted by the commissioner.

**26-5-116. Rules and regulations; reporting.**

(f) A regulation adopted pursuant to subsection (c) of this section shall not apply to cessions to an assuming insurer that:



ORIGINAL SENATE  
FILE NO. SF0014

ENROLLED ACT NO. 7, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
2021 GENERAL SESSION

(i) Meets the conditions set forth in W.S. 26-5-112(a)(vii) or, if this state has not adopted provisions substantially equivalent to section 2F of the Credit for Reinsurance Model Law, the assuming insurer is operating in accordance with provisions substantially equivalent to section 2F of the Credit for Reinsurance Model Law in a minimum of five (5) other states;

~~(i)~~(ii) Is certified in this state or, if this state has not adopted provisions substantially equivalent to section 2E of the Credit for Reinsurance Model Law, certified in a minimum of five (5) other states; or

~~(ii)~~(iii) Maintains at least two hundred fifty million dollars (\$250,000,000.00) in capital and surplus when determined in accordance with the NAIC accounting practices and procedures manual, including all amendments adopted by the NAIC, excluding the impact of any permitted or prescribed practices, and is:

(A) Licensed in at least twenty-six (26) states; or

(B) Licensed in at least ten (10) states and licensed or accredited in a total of at least thirty-five (35) states.

**Section 2.** This act is effective July 1, 2021.

(END)