

SENATE FILE NO. SF0014

Credit for reinsurance.

Sponsored by: Joint Corporations, Elections & Political  
Subdivisions Interim Committee

A BILL

for

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

6

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

8

9       **Section 1.** W.S. 26-5-112(a)(iv), by creating a new  
10 paragraph (vii) and by creating a new subsection (j) and  
11 26-5-116(f) by creating a new paragraph (i) and renumbering  
12 (i) as (ii) and (ii) as (iii) are amended to read:

13

14       **26-5-112. Credit allowed a domestic ceding insurer.**

15

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

12

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

19

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

22

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

4  
5           (B) The assuming insurer has and maintains,  
6 on an ongoing basis, minimum capital and surplus, or its  
7 equivalent, calculated according to the methodology of its  
8 domiciliary jurisdiction in an amount specified in rules  
9 adopted by the commissioner. If the assuming insurer is an  
10 association, including incorporated and individual  
11 unincorporated underwriters, it shall have and maintain, on  
12 an ongoing basis, minimum capital and surplus equivalents,  
13 which are net of liabilities, calculated according to the  
14 methodology applicable in its domiciliary jurisdiction and  
15 a central fund containing a balance in amounts specified in  
16 rules adopted by the commissioner;

17  
18           (C) The assuming insurer has and maintains,  
19 on an ongoing basis, a minimum solvency or capital ratio,  
20 as applicable, as specified in rules adopted by the  
21 commissioner. If the assuming insurer is an association,  
22 including incorporated and individual unincorporated  
23 underwriters, it shall have and maintain, on an ongoing

1 basis, a minimum solvency or capital ratio in the  
2 reciprocal jurisdiction where the assuming insurer has its  
3 head office or is domiciled, as applicable, and is also  
4 licensed;

5

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

9

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

16

17 (II) The assuming insurer shall  
18 consent in writing to the jurisdiction of the courts of  
19 this state and to the appointment of the commissioner as  
20 agent for service of process. The commissioner may require  
21 that consent for service of process be provided to the  
22 commissioner and included in each reinsurance agreement.  
23 Nothing in this subdivision shall limit or in any way alter

1 the capacity of parties to a reinsurance agreement to agree  
2 to alternative dispute resolution mechanisms, except to the  
3 extent such agreements are unenforceable under applicable  
4 insolvency or delinquency laws;

5  
6 (III) The assuming insurer shall  
7 consent in writing to pay all final judgments, wherever  
8 enforcement is sought, obtained by a ceding insurer or its  
9 legal successor, that have been declared enforceable in the  
10 jurisdiction where the judgment was obtained;

11  
12 (IV) Each reinsurance agreement shall  
13 require the assuming insurer to provide security in an  
14 amount equal to one hundred percent (100%) of the assuming  
15 insurer's liabilities attributable to reinsurance ceded  
16 pursuant to that agreement if the assuming insurer resists  
17 enforcement of a final judgment applicable to the  
18 reinsurance ceded pursuant to that agreement that is  
19 enforceable under the law of the jurisdiction in which it  
20 was obtained or a properly enforceable arbitration award,  
21 whether obtained by the ceding insurer or by its legal  
22 successor on behalf of its resolution estate; and

23

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

12

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

18

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

23

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

8  
9           (H) Nothing in this paragraph precludes an  
10 assuming insurer from providing the commissioner with  
11 information on a voluntary basis;

12  
13           (J) The commissioner shall timely create  
14 and publish a list of reciprocal jurisdictions. The  
15 commissioner's list shall include any reciprocal  
16 jurisdiction as defined under subparagraphs (j)(ii)(A) and  
17 (B) of this section and the commissioner shall consider  
18 adding any other reciprocal jurisdiction included on the  
19 NAIC list of reciprocal jurisdictions published through the  
20 NAIC committee process. The commissioner may approve a  
21 jurisdiction as a reciprocal jurisdiction that does not  
22 appear on the NAIC list of reciprocal jurisdictions in  
23 accordance with criteria specified in rules adopted by the

1 commissioner. The commissioner may remove a jurisdiction  
2 from the list of reciprocal jurisdictions upon a  
3 determination that the jurisdiction no longer meets the  
4 requirements of a reciprocal jurisdiction, in accordance  
5 with a process set forth in rules adopted by the  
6 commissioner, except that the commissioner shall not remove  
7 from the list a reciprocal jurisdiction as defined under  
8 subparagraph (j)(ii)(A) or (B) of this section. Upon  
9 removal of a reciprocal jurisdiction from this list, credit  
10 for reinsurance ceded to an assuming insurer which has its  
11 home office or is domiciled in that jurisdiction shall be  
12 allowed if otherwise allowed pursuant to this chapter;

13

14 (K) The commissioner shall timely create  
15 and publish a list of assuming insurers that have satisfied  
16 all conditions set forth in this paragraph and to which  
17 cessions shall be granted credit in accordance with this  
18 subsection. The commissioner may add an assuming insurer to  
19 the list if an NAIC accredited jurisdiction has added the  
20 assuming insurer to a list of such assuming insurers or if,  
21 upon initial eligibility, the assuming insurer submits the  
22 information to the commissioner as required under  
23 subparagraph (D) of this paragraph and complies with any



1 additional requirements that the commissioner may impose by  
2 rule, except to the extent that they conflict with an  
3 applicable covered agreement;

4  
5 (M) If the commissioner determines that an  
6 assuming insurer no longer meets one (1) or more of the  
7 requirements under this paragraph, the commissioner may  
8 revoke or suspend the eligibility of the assuming insurer  
9 for recognition under this paragraph in accordance with  
10 procedures set forth in rules adopted by the commissioner.  
11 While an assuming insurer's eligibility is suspended, no  
12 reinsurance agreement issued, amended or renewed after the  
13 effective date of the suspension qualifies for credit  
14 except to the extent that the assuming insurer's  
15 obligations under the contract are secured in accordance  
16 with W.S. 26-5-113. If an assuming insurer's eligibility is  
17 revoked, no credit for reinsurance may be granted after the  
18 effective date of the revocation with respect to any  
19 reinsurance agreements entered into by the assuming  
20 insurer, including reinsurance agreements entered into  
21 prior to the date of revocation, except to the extent that  
22 the assuming insurer's obligations under the contract are

1 secured in a form acceptable to the commissioner and  
2 consistent with the provisions of W.S. 26-5-113;

3  
4 (N) If subject to a legal process of  
5 rehabilitation, liquidation or conservation, as applicable,  
6 the ceding insurer or its representative may seek and, if  
7 determined appropriate by the court in which the  
8 proceedings are pending, may obtain an order requiring that  
9 the assuming insurer post security for all outstanding  
10 ceded liabilities;

11  
12 (O) Nothing in this paragraph shall limit  
13 or in any way alter the capacity of parties to a  
14 reinsurance agreement to agree on requirements for security  
15 or other terms in that reinsurance agreement, except as  
16 expressly prohibited by this chapter or other applicable  
17 law or rule;

18  
19 (P) Credit may be taken under this  
20 paragraph only for reinsurance agreements entered into,  
21 amended, or renewed on or after July 1, 2021 and only with  
22 respect to losses incurred and reserves reported on or  
23 after the later of the date on which the assuming insurer

1 has met all eligibility requirements of this paragraph and  
2 the effective date of the new reinsurance agreement,  
3 amendment or renewal. This subparagraph does not alter or  
4 impair a ceding insurer's right to take credit for  
5 reinsurance, to the extent that credit is not available  
6 under this paragraph, as long as the reinsurance qualifies  
7 for credit under any other applicable provision of this  
8 chapter;

9  
10 (Q) Nothing in this paragraph shall  
11 authorize an assuming insurer to withdraw or reduce the  
12 security provided under any reinsurance agreement except as  
13 permitted by the terms of the agreement;

14  
15 (R) Nothing in this paragraph shall limit,  
16 or in any way alter, the capacity of parties to any  
17 reinsurance agreement to renegotiate the agreement.

18  
19 (j) As used in this section:

20  
21 (i) "Covered agreement" means an agreement  
22 entered into pursuant to the Dodd-Frank Wall Street Reform  
23 and Consumer Protection Act, 31 U.S.C. §§ 313 and 314, that

1 is currently in effect or in a period of provisional  
2 application and that addresses the elimination, under  
3 specified conditions, of collateral requirements as a  
4 condition for entering into any reinsurance agreement with  
5 a ceding insurer domiciled in this state or for allowing  
6 the ceding insurer to recognize credit for reinsurance;

7  
8 (ii) "Reciprocal jurisdiction" means any of the  
9 following:

10  
11 (A) A non-United States jurisdiction that  
12 is subject to an in-force covered agreement with the United  
13 States, each within its legal authority, or, in the case of  
14 a covered agreement between the United States and the  
15 European Union, is a member state of the European Union;

16  
17 (B) A United States jurisdiction that meets  
18 the requirements for accreditation under the NAIC financial  
19 standards and accreditation program;

20  
21 (C) A qualified jurisdiction, as determined  
22 by the commissioner pursuant to subparagraph (a)(vi)(C) of  
23 this section, that is not otherwise described in

1 subparagraphs (A) or (B) of this paragraph and that meets  
2 certain additional requirements, consistent with the terms  
3 and conditions of in-force covered agreements, as specified  
4 in rules adopted by the commissioner.

5

6 **26-5-116. Rules and regulations; reporting.**

7

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

11

12 (i) Meets the conditions set forth in W.S.  
13 26-5-112(a)(vii) or, if this state has not adopted  
14 provisions substantially equivalent to section 2F of the  
15 Credit for Reinsurance Model Law, the assuming insurer is  
16 operating in accordance with provisions substantially  
17 equivalent to section 2F of the Credit for Reinsurance  
18 Model Law in a minimum of five (5) other states;

19

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

1

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

8

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

11

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

15

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

17

18

(END)