

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. [BILL NUMBER]

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 26-
11 5-116(f) by creating a new paragraph (i) and renumbering (i)
12 as (ii) and (ii) as (iii):

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2 **26-5-112. Credit allowed a domestic ceding insurer.**

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

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

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

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(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

1 underwriters, it shall have and maintain, on an ongoing basis,
2 a minimum solvency or capital ratio in the reciprocal
3 jurisdiction where the assuming insurer has its head office
4 or is domiciled, as applicable, and is also licensed;

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

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10 (I) The assuming insurer shall provide
11 prompt written notice and explanation to the commissioner if
12 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 material
15 noncompliance with applicable law;

16
17 (II) The assuming insurer shall consent
18 in writing to the jurisdiction of the courts of this state
19 and to the appointment of the commissioner as agent for
20 service of process. The commissioner may require that consent
21 for service of process be provided to the commissioner and
22 included in each reinsurance agreement. Nothing in this
23 subdivision shall limit or in any way alter the capacity of

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

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

23

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

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

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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 by
22 the commissioner;

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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 date
4 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;

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

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

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

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

1 rule, except to the extent that they conflict with an
2 applicable covered agreement;

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4 (M) If the commissioner determines that an
5 assuming insurer no longer meets one (1) or more of the
6 requirements under this paragraph, the commissioner may
7 revoke or suspend the eligibility of the assuming insurer for
8 recognition under this paragraph in accordance with
9 procedures set forth in rules adopted by the commissioner.

10 While an assuming insurer's eligibility is suspended, no
11 reinsurance agreement issued, amended or renewed after the
12 effective date of the suspension qualifies for credit except
13 to the extent that the assuming insurer's obligations under
14 the contract are secured in accordance with W.S. 26-5-113. If
15 an assuming insurer's eligibility is revoked, no credit for
16 reinsurance may be granted after the effective date of the
17 revocation with respect to any reinsurance agreements entered
18 into by the assuming insurer, including reinsurance
19 agreements entered into prior to the date of revocation,
20 except to the extent that the assuming insurer's obligations
21 under the contract are secured in a form acceptable to the
22 commissioner and consistent with the provisions of W.S. 26-
23 5-113;

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(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;

(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

1 credit is not available under this paragraph, as long as the
2 reinsurance qualifies for credit under any other applicable
3 provision of this chapter;

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

9
10 (R) Nothing in this paragraph shall limit, or
11 in any way alter, the capacity of parties to any reinsurance
12 agreement to renegotiate the agreement.

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14 (j) As used in this section:

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16 (i) "Covered agreement" means an agreement entered
17 into pursuant to the Dodd-Frank Wall Street Reform and
18 Consumer Protection Act, 31 U.S.C. §§ 313 and 314, that is
19 currently in effect or in a period of provisional application
20 and that addresses the elimination, under specified
21 conditions, of collateral requirements as a condition for
22 entering into any reinsurance agreement with a ceding insurer

1 domiciled in this state or for allowing the ceding insurer to
2 recognize credit for reinsurance;

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

6
7 (A) A non United States jurisdiction that is
8 subject to an in-force covered agreement with the United
9 States, each within its legal authority, or, in the case of
10 a covered agreement between the United States and the European
11 Union, is a member state of the European Union;

12
13 (B) A United States jurisdiction that meets
14 the requirements for accreditation under the NAIC financial
15 standards and accreditation program;

16
17 (C) A qualified jurisdiction, as determined by
18 the commissioner pursuant to subparagraph (a) (vi) (C) of this
19 section, that is not otherwise described in subparagraphs (A)
20 or (B) of this paragraph and that meets certain additional
21 requirements, consistent with the terms and conditions of in-
22 force covered agreements, as specified in rules adopted by
23 the commissioner.

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2 **26-5-116. Rules and regulations; reporting.**

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

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8 (i) Meets the conditions set forth in W.S. 26-5-
9 112(a)(vii) or, if this state has not adopted provisions
10 substantially equivalent to section 2F of the Credit for
11 Reinsurance Model Law, the assuming insurer is operating in
12 accordance with provisions substantially equivalent to
13 section 2F of the Credit for Reinsurance Model Law in a
14 minimum of five (5) other states;

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

20

21 ~~(ii)~~ (iii) Maintains at least two hundred fifty
22 million dollars (\$250,000,000.00) in capital and surplus when
23 determined in accordance with the NAIC accounting practices

1 and procedures manual, including all amendments adopted by
2 the NAIC, excluding the impact of any permitted or prescribed
3 practices, and is:

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

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(END)