Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

CONSENT

Bill No: AB 2049
Author: Cooley (D)
Amended: 3/2/20 in Assembly
Vote: 21

SENATE INSURANCE COMMITTEE: 13-0, 8/4/20
AYES: Rubio, Jones, Archuleta, Bates, Borgeas, Dodd, Galgiani, Glazer, Hueso, Mitchell, Moorlach, Portantino, Roth

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

---

SUBJECT: Reinsurance credit

SOURCE: California Department of Insurance

DIGEST: This bill updates California insurance law to conform to recent changes to the Credit for Reinsurance Model Act adopted by the National Association of Insurance Commissioners (NAIC).

ANALYSIS: Existing federal law, the Nonadmitted and Reinsurance Reform Act, part of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank Act”) provides that even though a reinsurer may sell in many states, only the state where the reinsurer is domiciled (where it is incorporated or entered through, and licensed) may regulate the financial solvency of a reinsurer provided the reinsurer meets financial integrity standards that demonstrate that it can meet its obligations to insurers.

Existing state law:

1) Establishes a comprehensive system of financial regulation for insurers, including allowing the use of reinsurance; “insurance for insurers” that satisfies some portion of the insurer’s statutory financial requirements.

2) Limits the amount of insurance an insurer can sell according to its capital and surplus (surplus is the value of the insurer's assets minus its liabilities).

3) Allows a domestic insurer to take credit for reinsurance if the reinsurance is ceded to an insurer domiciled in this state, is domiciled in another U.S. State or territory and "accredited" as reinsurer, or is "certified" as a reinsurer domiciled within or outside of the U.S.

4) Establishes a process and standards for certifying reinsurers domiciled within or outside of the U.S. and provides for a cooperative, multi-jurisdictional, and sometimes international, system of supervising these reinsurers. Qualifications include:

   a) The reinsurer is domiciled in a "qualified jurisdiction," i.e. a jurisdiction that has agreed to cooperate in joint supervision and meets minimum regulatory standards.

   b) Meets minimum capital and surplus requirements.

   c) Meets minimum credit rating requirements.

   d) Agrees to submit to the jurisdiction of this state and appoint an agent for service of process.

   e) Meet specified filing requirements, as well as other requirements imposed by the Insurance Commissioner (commissioner).

5) Requires the commissioner to create and publish a list of qualified jurisdictions reinsurers that satisfy the applicable standards.

This bill:

1) Establishes a new category of reinsurer, a reinsurer from a "reciprocal jurisdiction," and requires that a domestic insurer be allowed a credit for reinsurance ceded to an assuming insurer from a reciprocal jurisdiction that meets specified standards.

   a) Provides that a reciprocal jurisdiction falls into one of the following categories:

      i) A non-U.S. jurisdiction that is subject to an in-force "covered agreement" with the U.S. and that the covered agreement be made pursuant to the Dodd-Frank Act and meets other standards.

ii) An NAIC accredited jurisdiction within the U.S.

iii) A "qualified jurisdiction" that applies similar and reciprocal standards as determined by the commissioner and agrees to share information as provided.

b) Establishes that qualifying reinsurers meet minimum requirements for capital and surplus, maintain a minimum solvency or capital ratio, provide assurance to the commissioner that it submits to the jurisdiction and specified legal remedies of this state, will provide certain regulatory documents, and will maintain a practice of prompt payment of claims.

2) Requires the commissioner to publish a list of reciprocal jurisdictions and a list of reinsurers with a head office or domicile in, and that are licensed in, a reciprocal jurisdiction.

3) Requires a certified reinsurer to file with the commissioner audited financial statements, regulatory filings, and actuarial opinion as filed with a non-United States jurisdiction, with an English translation, and authorizes the commissioner to consider those documents to evaluate the reinsurer's financial strength.

Background

Reinsurance plays a critical role in the insurance market. It can serve as a failsafe when things go really bad (like a catastrophic wildfire), it can provide a form of security that allows an insurer to take on more risk than it would otherwise (like home with a replacement value over $1 million), it can provide the additional capacity that allows smaller insurers to grow more quickly, and it helps to spread risks across multiple balance sheets (including domestic and international companies) so that no one actor is "left holding the bag." In fact, reinsurance is so important that federal law, which generally leaves insurance regulation to the state, intercedes and has established a uniform framework for crediting reinsurance contracts against their liabilities when calculating an insurer's statutory capacity.

NAIC's Uniform Approach to Oversight of Multijurisdictional Reinsurance Transactions. Federal law leaves the primary responsibility for setting insurance policy with the States. In order to regulate such a large, sophisticated industry, the States generally work together through the NAIC to coordinate policy. NAIC is the U.S. standard-setting and regulatory support organization composed of the chief insurance regulators from the 50 states, the District of Columbia and five U.S. territories. The NAIC provides policy and support to the insurance regulators in each state, and provides model law proposals on a wide range of insurance issues.

There are a core set of insurance model laws states must conform to in order to obtain and maintain "accreditation." Accreditation allows for coordination in financial regulation of insurers whose operations typically span multiple states and nations. Through the NAIC, State Insurance Commissioners operate in large part under a delegation of authority from the legislative branches of individual states, to among other things, develop model legislation. This bill implements recent revisions to the NAIC Model Law governing reinsurance transactions.

State insurance regulators receive accreditation by meeting certain legal, financial, and organizational standards established by the NAIC. Accreditation allows for inter-state regulatory cooperation and decreases regulatory costs. For instance, state insurance commissioners can accept the examination report prepared by another accredited state insurance department in lieu of performing its own financial examination, allowing insurers to operate efficiently in multiple states.

On June 25, 2019, the NAIC unanimously adopted revisions to the Credit for Reinsurance Model Act and Regulations in order to implement the Bilateral Agreement between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance. The agreement eliminates reinsurance collateral requirements for certain reinsurers that maintain a minimum amount of funds and a solvency capital requirement. It also requires states to enact the provisions of the revised model act with respect to the reinsurance collateral requirements or the state's laws regarding credit for reinsurance will face potential federal preemption. The provisions will also become part of the NAIC state accreditation process.

Specifically, this bill expands the methods that a reinsurer can be deemed worthy of issuing agreements that will be credited against a ceding insurer's liabilities. This new process recognizes that the reinsurers are already overseen in a similar fashion when it is domiciled or has its headquarters in a qualifying reciprocal jurisdiction and meets other standards designed to ensure financial stability.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT: (Verified 8/13/20)

California Department of Insurance (source)
American Property Casualty Insurance Association
Reinsurance Association of America

OPPOSITION: (Verified 8/13/20)

None received

ARGUMENTS IN SUPPORT: The American Property Casualty Insurance Association writes, "The bill tracks the newly revised National Association of Insurance Commissioners (NAIC) Credit for Reinsurance Model Law and provides for collateral relief for reinsurers in the European Union and the U.K. The U.S. has entered into agreements with both countries that ensure that only financially stable and well-regulated EU reinsurers qualify for collateral relief. The bill also grants similar relief to reinsurers in certain countries outside of the E.U. who have been found by U.S. regulators to be similarly financially strong and well-regulated."

ASSEMBLY FLOOR: 76-0, 6/8/20
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Diep, Eggman, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager, Kiley, Lackey, Levine, Limón, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Nazarian, Obernolte, O'Donnell, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Voepel, Waldron, Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Brian Flemmer / INS. / (916) 651-4110
8/14/20 12:12:03

****** END ******