

---

HOUSE BILL 2490

---

State of Washington

54th Legislature

1996 Regular Session

By Representatives L. Thomas, Dyer, Grant and Kessler

Read first time 01/11/96. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to credit for reinsured ceded risks; and amending  
2 RCW 48.12.160.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 48.12.160 and 1994 c 86 s 1 are each amended to read  
5 as follows:

6 (1) Any insurance company organized under the laws of this state  
7 may take credit as an asset or as a deduction from loss or claim,  
8 unearned premium, or life policy or contract reserves on risks ceded to  
9 a reinsurer to the extent reinsured by an insurer or insurers holding  
10 a certificate of authority to transact that kind of business in this  
11 state. The credit on ceded risks reinsured by any insurer which is not  
12 authorized to transact business in this state may be taken:

13 (a) Where the reinsurer is a group including incorporated and  
14 unincorporated underwriters, and the group maintains a trust fund in a  
15 United States bank that is determined by the national association of  
16 insurance commissioners to meet credit standards for issuing letters of  
17 credit in connection with reinsurance, which trust fund must be in an  
18 amount equal to the group's liabilities attributable to business  
19 written in the United States, and in addition, the group shall maintain

1 a trustee surplus of which one hundred million dollars shall be held  
2 jointly and exclusively for the benefit of United States ceding  
3 insurers of any member of the group; the incorporated members of the  
4 group shall not be engaged in any business other than underwriting as  
5 a member of the group and shall be subject to the same level of  
6 solvency regulation and control by the group's domiciliary regulator as  
7 are the unincorporated members; and the group shall make available to  
8 the commissioner an annual certification of the solvency of each  
9 underwriter by the group's domiciliary regulator and its independent  
10 public accountants; (~~or~~)

11 (b) Where the reinsurer does not meet the definition of (a) of this  
12 subsection, the reinsurer maintains a trust fund in a United States  
13 bank that is determined by the national association of insurance  
14 commissioners to meet credit standards for issuing letters of credit in  
15 connection with reinsurance, which trust fund must be in an amount  
16 equal to the reinsurer's liabilities attributable to reinsurance ceded  
17 by United States domiciled insurers, and in addition, the assuming  
18 insurer shall maintain a trustee surplus of not less than twenty  
19 million dollars; or

20 (c) In an amount not exceeding:

21 (i) The amount of deposits by and funds withheld from the assuming  
22 insurer pursuant to express provision therefor in the reinsurance  
23 contract, as security for the payment of the obligations thereunder, if  
24 the deposits or funds are assets of the types and amounts that are  
25 authorized under chapter 48.13 RCW and are held subject to withdrawal  
26 by and under the control of the ceding insurer or if the deposits or  
27 funds are placed in trust for these purposes in a bank which is a  
28 member of the federal reserve system and withdrawals from the trust  
29 cannot be made without the consent of the ceding company; or

30 (ii) The amount of a clean, irrevocable, and unconditional letter  
31 of credit issued by a United States bank that is determined by the  
32 national association of insurance commissioners to meet credit  
33 standards for issuing letters of credit in connection with reinsurance,  
34 and issued for a term of at least one year with provisions that it must  
35 be renewed unless the bank gives notice of nonrenewal at least thirty  
36 days before the expiration issued under arrangements satisfactory to  
37 the commissioner of insurance as constituting security to the ceding  
38 insurer substantially equal to that of a deposit under (~~(b)~~) (c)(i)  
39 of this subsection.

1       (2) Any reinsurance ceded by a company organized under the laws of  
2 this state or ceded by any company not organized under the laws of this  
3 state and transacting business in this state must be payable by the  
4 assuming insurer on the basis of liability of the ceding company under  
5 the contract or contracts reinsured without diminution because of the  
6 insolvency of the ceding company, and any such reinsurance agreement  
7 which may be canceled on less than ninety days notice must provide for  
8 a run-off of the reinsurance in force at the date of cancellation.

9       (3) A reinsurance agreement may provide that the liquidator or  
10 receiver or statutory successor of an insolvent ceding insurer shall  
11 give written notice of the pendency of a claim against the insolvent  
12 ceding insurer on the policy or bond reinsured within a reasonable time  
13 after such claim is filed in the insolvency proceeding and that during  
14 the pendency of such claim any assuming insurer may investigate such  
15 claim and interpose, at its own expense, in the proceeding where such  
16 claim is to be adjudicated, any defense or defenses which it may deem  
17 available to the ceding insurer or its liquidator or receiver or  
18 statutory successor.

19       The expense thus incurred by the assuming insurer shall be  
20 chargeable subject to court approval against the insolvent ceding  
21 insurer as a part of the expense of liquidation to the extent of a  
22 proportionate share of the benefit which may accrue to the ceding  
23 insurer solely as a result of the defense undertaken by the assuming  
24 insurer.

25       (4) Where two or more assuming insurers are involved in the same  
26 claim and a majority in interest elect to interpose to such claim, the  
27 expense shall be apportioned in accordance with the terms of the  
28 reinsurance agreement as though such expense had been incurred by the  
29 ceding insurer.

--- END ---