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SENATE BILL 5709

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State of Washington

53rd Legislature

1993 Regular Session

By Senators Moore, Prince and Prentice; by request of Insurance Commissioner

Read first time 02/10/93. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to credit for reinsurance; and amending RCW  
2 48.05.300 and 48.12.160.

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

4 **Sec. 1.** RCW 48.05.300 and 1977 ex.s. c 180 s 1 are each amended to  
5 read as follows:

6 No credit shall be allowed to any insurer, as an asset or as a  
7 deduction from liability for reinsurance ceded to an insurer, (~~other~~  
8 ~~than under a contract of ocean marine insurance~~) except as provided in  
9 RCW 48.12.160.

10 **Sec. 2.** RCW 48.12.160 and 1977 ex.s. c 180 s 3 are each amended to  
11 read as follows:

12 (1) Any insurance company organized under the laws of this state  
13 may take credit as an asset or as a deduction from loss (~~and unearned~~  
14 ~~premium~~) or claim, unearned premium, or life policy or contract  
15 reserves on risks ceded to a reinsurer to the extent reinsured by an  
16 insurer or insurers (~~authorized~~) holding a certificate of authority  
17 to transact that kind of business in this state. The credit on ceded

1 risks reinsured by any insurer which is not authorized to transact  
2 business in this state may be taken:

3 (a) ~~Where the reinsurer ((maintains sufficient assets in the United~~  
4 ~~States for the protection of policyholders in the United States and~~  
5 ~~operates its business in such manner as to satisfy the commissioner~~  
6 ~~that it maintains a financial condition reasonably comparable to those~~  
7 ~~required of admitted insurers and that it is able to pay losses in the~~  
8 ~~United States))~~ is a group of unincorporated underwriters, and the  
9 group maintains a trust fund in a United States bank that is determined  
10 by the national association of insurance commissioners to meet credit  
11 standards for issuing letters of credit in connection with reinsurance,  
12 which trust fund must be in an amount equal to the group's liabilities  
13 attributable to business written in the United States, and in addition,  
14 the group shall maintain a trusteed surplus of which one hundred  
15 million dollars shall be held jointly and exclusively for the benefit  
16 of United States ceding insurers of any member of the group; and the  
17 group shall make available to the commissioner an annual certification  
18 of the solvency of each underwriter by the group's domiciliary  
19 regulator and its independent public accountants; or

20 (b) 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 ~~((and)),~~ irrevocable, and unconditional  
31 letter of credit issued by a ((bank which is a member of the federal  
32 reserve system for a term of at least two years if the letter of credit  
33 is)) United States bank that is determined by the national association  
34 of insurance commissioners to meet credit standards for issuing letters  
35 of credit in connection with reinsurance, and issued for a term of at  
36 least one year with provisions that it must be renewed unless the bank  
37 gives notice of nonrenewal at least sixty days before the expiration  
38 issued under arrangements satisfactory to the commissioner of insurance

1 as constituting security to the ceding insurer substantially equal to  
2 that of a deposit under ((subparagraph)) (b)(i) of this subsection.

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

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

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

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

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