

2 **HB 2490** - S COMM AMD

3 By Committee on Financial Institutions & Housing

4 ADOPTED 2/29/96

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 48.12.160 and 1994 c 86 s 1 are each amended to read
8 as follows:

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

16 (a) Where the reinsurer is a group including incorporated and
17 unincorporated underwriters, and the group maintains a trust fund in a
18 United States bank that is determined by the national association of
19 insurance commissioners to meet credit standards for issuing letters of
20 credit in connection with reinsurance, which trust fund must be in an
21 amount equal to the group's liabilities attributable to business
22 written in the United States, and in addition, the group shall maintain
23 a trusted surplus of which one hundred million dollars shall be held
24 jointly and exclusively for the benefit of United States ceding
25 insurers of any member of the group; the incorporated members of the
26 group shall not be engaged in any business other than underwriting as
27 a member of the group and shall be subject to the same level of
28 solvency regulation and control by the group's domiciliary regulator as
29 are the unincorporated members; and the group shall make available to
30 the commissioner an annual certification of the solvency of each
31 underwriter by the group's domiciliary regulator and its independent
32 public accountants; ((or))

33 (b) Where the reinsurer does not meet the definition of (a) of this
34 subsection, the reinsurer maintains a trust fund in a United States
35 bank that is determined by the national association of insurance
36 commissioners to meet credit standards for issuing letters of credit in

1 connection with reinsurance, which trust fund must be in an amount
2 equal to the reinsurer's liabilities attributable to reinsurance ceded
3 by United States domiciled insurers, and in addition, the assuming
4 insurer shall maintain a trusteed surplus of not less than twenty
5 million dollars; or

6 (c) In an amount not exceeding:

7 (i) The amount of deposits by and funds withheld from the assuming
8 insurer pursuant to express provision therefor in the reinsurance
9 contract, as security for the payment of the obligations thereunder, if
10 the deposits or funds are assets of the types and amounts that are
11 authorized under chapter 48.13 RCW and are held subject to withdrawal
12 by and under the control of the ceding insurer or if the deposits or
13 funds are placed in trust for these purposes in a bank which is a
14 member of the federal reserve system and withdrawals from the trust
15 cannot be made without the consent of the ceding company; or

16 (ii) The amount of a clean, irrevocable, and unconditional letter
17 of credit issued by a United States bank that is determined by the
18 national association of insurance commissioners to meet credit
19 standards for issuing letters of credit in connection with reinsurance,
20 and issued for a term of at least one year with provisions that it must
21 be renewed unless the bank gives notice of nonrenewal at least thirty
22 days before the expiration issued under arrangements satisfactory to
23 the commissioner of insurance as constituting security to the ceding
24 insurer substantially equal to that of a deposit under ~~((b))~~ (c)(i)
25 of this subsection.

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

34 (3) A reinsurance agreement may provide that the liquidator or
35 receiver or statutory successor of an insolvent ceding insurer shall
36 give written notice of the pendency of a claim against the insolvent
37 ceding insurer on the policy or bond reinsured within a reasonable time
38 after such claim is filed in the insolvency proceeding and that during
39 the pendency of such claim any assuming insurer may investigate such

1 claim and interpose, at its own expense, in the proceeding where such
2 claim is to be adjudicated, any defense or defenses which it may deem
3 available to the ceding insurer or its liquidator or receiver or
4 statutory successor.

5 The expense thus incurred by the assuming insurer shall be
6 chargeable subject to court approval against the insolvent ceding
7 insurer as a part of the expense of liquidation to the extent of a
8 proportionate share of the benefit which may accrue to the ceding
9 insurer solely as a result of the defense undertaken by the assuming
10 insurer.

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

16 NEW SECTION. **Sec. 2.** The provisions of section 1 of this act
17 shall have no application until the adoption of implementing rules by
18 the insurance commissioner. Prior to the adoption of implementing
19 rules, the insurance commissioner shall conduct a study to determine
20 the safety, soundness, and administrative feasibility of the practice
21 set forth in section 1 of this act and report the findings of the study
22 to the appropriate standing committees of the legislature by January 1,
23 1997. This report may contain recommendations for proposed legislation
24 to further effectuate the intent of section 1 of this act. The
25 insurance commissioner may subsequently adopt further rules in addition
26 to the implementing of rules for the purpose of continuing to
27 effectuate section 1 of this act.

28 NEW SECTION. **Sec. 3.** There is appropriated from the insurance
29 commissioner's regulatory account, over and above the appropriation for
30 the insurance commissioner for the fiscal year ending June 30, 1997,
31 the sum of ten thousand dollars to conduct the study in section 2 of
32 this act.

33 NEW SECTION. **Sec. 4.** Section 1 of this act takes effect July 1,
34 1997."

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4 On page 1, line 1 of the title, after "risks;" strike the remainder
5 of the title and insert "amending RCW 48.12.160; creating a new
6 section; making an appropriation; and providing an effective date."

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