SB 999

Department of Legislative Services

Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 999 (Senator Pugh)
Finance Economic Matters

Insurance - Reinsurance - Certification of Reinsurers

This bill requires the State Insurance Commissioner to consider the list of conditionally qualified jurisdictions published through the National Association of Insurance Commissioners (NAIC) committee process when determining the qualified jurisdictions in the State under which an assuming insurer, licensed and domiciled in the jurisdiction, is eligible to be considered for certification as a reinsurer in the State. In determining whether a jurisdiction is a qualified jurisdiction, the Commissioner must consider the list of NAIC conditionally qualified and qualified jurisdictions (1) when the jurisdiction has been evaluated for inclusion on the list and (2) whenever the list is amended.

The bill also authorizes the Commissioner to use information provided by NAIC committee process, if an applicant for certification has been certified as a reinsurer by the insurance regulatory agency of a state accredited by NAIC, to (1) designate the assuming insurer as a certified reinsurer in the State and/or (2) assign a rating to the assuming insurer.

The bill takes effect June 1, 2014.

Fiscal Summary

State Effect: The bill's requirements can be handled with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law:

Requirements for Reinsurance

Chapter 321 of 2013 amended the requirements that must be met by an assuming insurer before credit for reinsurance is allowed. Credit is allowed when the reinsurance is ceded to an assuming insurer that (1) is licensed to transact insurance or reinsurance in the State; (2) is accredited by the Commissioner as a reinsurer in the State; or (3) subject to the assuming insurer agreeing to specified requirements, maintains a trust fund meeting specified requirements in a qualified U.S. financial institution for the payment of the valid claims of its U.S. ceding insurers and their assigns and successors in interest.

Even if an assuming insurer does not meet the above requirements, credit is allowed for the insurance of risks located in jurisdictions where the reinsurance is required by the applicable law or regulation of that jurisdiction. If the assuming insurer does not meet the above requirements, an asset or a reduction from liability for the reinsurance ceded by a domestic insurer is allowed in an amount not exceeding the liabilities carried by the ceded insurer. The reduction is in the amount of funds held by or on behalf of the ceding insurer under a reinsurance contract with the assuming insurer as security for the payment of obligations under the contract if the security meets specified requirements.

Certification Requirements

As noted above, Chapter 321 authorizes credit to be allowed when the reinsurance is ceded to an assuming insurer that has been certified by the Commissioner as a reinsurer in the State and secures its obligations in accordance with the law. An assuming insurer must meet the following requirements before being considered eligible for certification:

- be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction;
- maintain minimum capital and surplus, or its equivalent, in an amount the Commissioner determines in accordance with regulations the Commissioner adopts;
- maintain financial strength ratings from two or more rating agencies that the Commissioner considers acceptable;
- agree to submit to the State's jurisdiction;
- appoint the Commissioner as its agent for service of process in the State;

- agree to provide security for all of the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers if it resists enforcement of a final U.S. judgment;
- agree to meet application information filing requirements as the Commissioner determines for the initial application for certification and on an ongoing basis; and
- satisfy any other requirements for certification that the Commissioner considers relevant.

If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the Commissioner may indefinitely suspend or revoke the certification.

Rating Requirements

Chapter 321 requires the Commissioner to assign a rating to each certified reinsurer, based on factors the Commissioner considers relevant, giving due consideration to the financial strength ratings that have been assigned by rating agencies in accordance with regulations the Commissioner adopts. The Commissioner must publish a list of all certified reinsurers and their ratings. If an applicant for certification has been certified by the insurance regulatory agency of a NAIC-accredited state, the Commissioner may use information provided by that *insurance regulatory agency* to designate the assuming insurer as a certified reinsurer in the State and/or assign a rating to the assuming insurer. If a certified reinsurer ceases to assume new business in the State, it may request to maintain its certification in inactive status in order to continue to qualify for a reduction in security for its in-force business. An inactive certified reinsurer must continue to comply with the requirements to secure its obligations. The Commissioner must assign a rating that takes into account, if relevant, the reasons why the reinsurer is not assuming new business.

Qualified Jurisdictions

Chapter 321 also requires the Commissioner to maintain and publish a list of qualified jurisdictions under which an assuming insurer, licensed and domiciled in that jurisdiction, is eligible to be considered for certification by the Commissioner as a certified reinsurer. In determining whether the domiciliary jurisdiction of a non-U.S. assuming insurer is eligible to be recognized as a qualified jurisdiction, the Commissioner must (1) evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, initially and on an ongoing basis and (2) consider the rights, benefits, and extent of reciprocal recognition afforded by the non-U.S. jurisdiction to reinsurers licensed and domiciled in the United States. The Commissioner is prohibited from recognizing as a qualified jurisdiction a jurisdiction that the Commissioner determines does not adequately and promptly enforce final U.S. judgments and arbitration awards.

A qualified jurisdiction must agree in writing to share information and cooperate with the Commissioner with respect to all certified reinsurers domiciled in that jurisdiction.

The Commissioner may consider other factors in determining the jurisdiction's eligibility, including whether the jurisdiction appears on NAIC's list of qualified jurisdictions. If the Commissioner approves a jurisdiction not on the list, the Commissioner must provide information related to the approval to NAIC. A jurisdiction that meets the requirements of NAIC's financial standards and accreditation program must be recognized as a qualified jurisdiction in the State.

Background: Reinsurance is a contract made between an insurance company and a third party to protect the insurance company against losses. For example, an insurer may sell 500 policies, each with a $100,000 policy limit. In this circumstance, an insurer could lose $50 million if all policies were to pay out at the same time. For this reason, an insurance company may purchase reinsurance from a third party to assume some of the risk of a large payout.

Additional Information

Prior Introductions: None.

Cross File: HB 1465 (Delegate Davis) - Rules and Executive Nominations.

Information Source(s): Maryland Insurance Administration, Department of Legislative Services

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