

LATE - ACLI_FAV_SB167

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Position: FAV



Vincent Ryan
Legislative Director

February 12, 2020

The Honorable Delores Kelley
Chair, Senate Finance Committee
Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

Re: Support for S. 167 – NAIC Credit for Reinsurance Model Act

Dear Senator Kelley:

The American Council of Life Insurers (“ACLI”) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million families rely on the life insurance industry for financial protection and retirement security. ACLI’s member companies are dedicated to protecting consumers’ financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. In Maryland, ACLI’s 235 member companies represent 93% of the life insurance industry. ACLI also represents all professional life reinsurers assuming mortality and morbidity risks in the United States.

ACLI appreciates the opportunity to write in support of Senate Bill 167 (“S. 167”), which is currently before the Senate Finance Committee.

Background

Reinsurers from around the world operate within all state jurisdictions in the United States to provide a necessary risk management function for insurance carriers doing business in a state like Maryland. Insurers, just like consumers, purchase insurance in the form of reinsurance. In 1945, Congress passed the McCarran-Ferguson Act, which delegates authority to the states to oversee and regulate insurance within each state jurisdiction.

In September of 2017, the United States entered into a Covered Agreement with the European Union (“EU”), which one of the terms of the Covered Agreement laid the groundwork for collateral requirements that U.S. domiciled insurers needed in order to do business with the qualifying EU reinsurers. On June 25, 2019, the National Association of Insurance Commissioners (“NAIC”) updated the existing “Credit for Reinsurance Model Law” (the “Model Act”) and supporting “Credit for Reinsurance Model Regulation” (the “Model Regulation”) to incorporate those new collateral requirements as well as recognize non-EU jurisdictions to follow the new requirements, if certain criteria are met. A number of states, including Maryland, had already passed a previously updated version of the NAIC’s Model Law. Due to the

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amendments adopted last year at the NAIC, it is necessary to update the credit for reinsurance law. Under the Covered Agreement, states are moving on an expedited basis to pass and enact the model amendments and regulations as soon as possible as the updated Model Act is an accreditation standard for states.

Summary

The amendments to the credit for reinsurance statute contained in S. 167 will eliminate the reduced reinsurance collateral requirements for Maryland insurers doing business with qualifying EU reinsurers. The alternative to not passing S. 167 in its current form is directly tied to possible federal preemption by the Federal Insurance Office. Passage of S. 167 strengthens and maintains the state-based regulatory structure that Congress so clearly set forth in the McCarran-Ferguson Act.

In conclusion, Maryland's insurance market is robust, which means insurers need broad access to reinsurers doing business all over the world. By passing S. 167, you are preserving Maryland's domestic insurers' ability to access reinsurance without the strict collateral requirements. Further, passage helps the Maryland Insurance Administration maintain accreditation with peer states throughout the NAIC, thereby upholding a strong state-based regulatory framework.

Thank you for your consideration.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Vincent J. Ryan", followed by a horizontal line.

VINCENT J. RYAN

cc: Steven Clayburn, ACLI Senior Actuary, Health Insurance & Reinsurance
Taylor Walker, Legislative Director

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**TESTIMONY OF
THE
MARYLAND INSURANCE ADMINISTRATION
BEFORE THE
SENATE FINANCE COMMITTEE**

FEBRUARY 12, 2020

SENATE BILL 167 – INSURANCE - CREDIT FOR REINSURANCE MODEL LAW - REVISIONS

POSITION: SUPPORT

Thank you for the opportunity to provide written comments regarding Senate Bill 167. Senate Bill 167 adopts revisions to the National Association of Insurance Commissioners' (NAIC) Model Law # 785, known as the Credit for Reinsurance Model Law Act. The changes predominantly reflect revisions to Model #785 required by the Bilateral Agreement between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance (the "Covered Agreement"). On September 22, 2017, the U.S. Treasury Department and the European Union (EU) announced they had formally signed the Covered Agreement. The Covered Agreement requires states to eliminate reinsurance collateral requirements for assuming insurers from the EU, and certain non-U.S. jurisdictions recognized as Qualified Jurisdictions that meet additional requirements, within 5 years or risk federal preemption.

Historically, U.S. state insurance regulators have required non-U.S. reinsurers to hold 100% consumer protection collateral within the U.S. for risk assumed from U.S. insurers. In 2011, as part of an effort to modernize reinsurance regulation in the U.S., the NAIC amended Model #785 and the Credit for Reinsurance Model Regulation (#786) to introduce requirements for a certified reinsurer (a new type of reinsurer, at the time) that could post significantly less than 100% collateral commensurate with the financial strength rating of the reinsurer and the quality of the regulatory regime that oversees it. These changes to Models #785 and #786 became accreditation requirements. Maryland adopted these revisions in 2013 (Chapter 321, Maryland laws 2013). Senate Bill 167 reflects additional revisions to #785 required by the execution of the Covered Agreement by the federal government.

Additionally, Senate Bill 167 also clarifies that the Commissioner has the discretion to defer to the insurance regulatory agency of a state accredited by the NAIC or the NAIC committee process to designate an assuming reinsurer as a certified reinsurer in the State or to assign a rating to an assuming reinsurer or both.

Finally, it is important to underscore that Senate Bill 167 reflects changes to Model #785 which are an accreditation requirement by the NAIC for the state's continued acceptance as a qualifying examination agency. Due to the risk of federal preemption, the NAIC has recently proposed that all states attempt to incorporate these changes into their laws as soon as possible.

The Maryland Insurance Administration supports Senate Bill 167 and urges the Committee to give Senate Bill 167 a favorable report.

STATE LEGISLATIVE BRIEF



& The CENTER
for INSURANCE
POLICY
and RESEARCH

The NAIC Credit for Reinsurance Model Law

- *The NAIC Credit for Reinsurance Model Law (#785) and Model Regulation (#786) strengthen state regulation, prevent regulatory arbitrage, protect U.S. policyholders, and reduce the uncertainty faced by insurers when planning for collateral liability.*
- *The 2019 revisions implement the reinsurance collateral provisions of the Covered Agreements that were entered into between the United States and the European Union and the United Kingdom, which require states to eliminate collateral requirements entirely within 5 years or be subject to federal preemption.*

Background

State insurance regulators have historically required non-U.S. reinsurers to hold 100% collateral within the U.S. for the risks they assume from U.S. insurers. Over the past decade, these collateral requirements have been a frequent subject of debate, with various groups calling for the elimination of collateral requirements for reinsurers licensed in well-regulated jurisdictions. In 2011, the NAIC adopted a revised Credit for Reinsurance model as part of a larger effort to modernize reinsurance regulation in the United States. These revisions allowed for non-U.S. reinsurers to post less than 100% collateral for U.S. claims, commensurate with the non-U.S. reinsurer's financial strength and the effectiveness of its home country regulator. In January 2016, the model was subsequently amended to provide the state insurance commissioner authority to issue regulations with respect to certain captive reinsurance transactions.

Significantly, in September 2017, the former administration's Treasury Department and the United States Trade Representative, utilizing their authorities under the Dodd-Frank Act, concluded negotiations on an agreement with the European Union that eliminates EU reinsurer collateral requirements provided certain regulatory criteria are met. In addition, the EU agreed to recognize the states' approach to group supervision, including group capital. States have five years to comply with the Agreement's reinsurer collateral requirements or face possible federal preemption. In December 2018, a separate Covered Agreement was signed between the U.S. and the UK, which mirrors the language from the agreement with the EU and has the same timing requirements for implementation.

In June 2019, the NAIC adopted revisions to the models that are intended to implement the reinsurance collateral provisions of the Covered Agreements. The revisions eliminate reinsurance collateral requirements for reinsurers that have their head office or are domiciled in any of the following "Reciprocal Jurisdictions": an EU-member country (or any other non-U.S. jurisdiction) that is subject to an in-force covered agreement, thereby addressing the elimination of reinsurance collateral requirements with U.S. ceding insurers; a U.S. jurisdiction (State) that meets the requirements for accreditation under the NAIC financial standards and accreditation program; and a non-U.S. jurisdiction recognized as a Qualified Jurisdiction that meets additional requirements consistent with the terms of a covered agreement. For reinsurers domiciled in Qualified Jurisdictions to obtain similar treatment as those jurisdictions subject to the Covered Agreements, they must provide to the states the same treatment and recognition afforded by EU countries pursuant to the EU/U.S. Covered Agreement. Therefore, our revisions include the requirement that the Qualified Jurisdiction must agree to recognize the states' approach to group supervision, including group capital.

Key Points

- ✓ The 2019 revisions implement the reinsurance collateral provisions of the EU/U.S. and UK/U.S. Covered Agreements, which require states to eliminate collateral requirements entirely within 5 years or be subject to federal preemption.
- ✓ Continued state action on the NAIC model is our best defense against further federal action.

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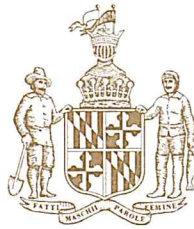
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SENATOR DELORES G. KELLEY
Legislative District 10
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Chair
Finance Committee

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Rules Committee
Legislative Policy Committee



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THE SENATE OF MARYLAND
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TESTIMONY OF SENATOR DELORES G. KELLEY

**REGARDING SENATE BILL 167 - INSURANCE - CREDIT FOR REINSURANCE MODEL
LAW - REVISIONS**

BEFORE THE SENATE FINANCE COMMITTEE

ON FEBRUARY 12, 2020

Mr. Vice Chairman and Members:

Senate Bill 167 revises the Maryland Insurance Code to reflect a 2017 bilateral agreement between the United States of America and the European Union regarding Insurance and Reinsurance, a change with which individual states are required to comply.

To assist the insurance departments of our various states in adopting conforming revisions to applicable sections of their respective Insurance statutes, the National Association of Insurance Commissioners (NAIC) adopted

two model acts, one of which Maryland adopted in 2013 as Chapter 321. That Maryland law was based upon NAIC Model Act # 787.

Maryland has not yet adopted NAIC Model Act # 785, known as the Credit for Reinsurance Model Act, which the federal government is also forcing states to adopt or to face preemption. This Act forces states to eliminate their various reinsurance collateral requirements for assuming insurers from European Union countries, or from certain other non-U.S. jurisdictions, as recognized in a 2017 EU/US Treasury agreement.

The 2017 EU/US agreement set a 2022 deadline for U.S. States to comply. Senate Bill 167 is here in regard, so that Maryland will not become subject to federal preemption.

Senate Bill 167 is also necessary for Maryland's adoption of an additional NAIC Model Act recognizing as accrediting standard necessary for the MIA's continued acceptance as a qualifying examination agency. Senate Bill 167 also

clarifies that the Maryland Insurance Commissioner has discretion to defer to other NAIC state – accredited insurance departments in determining when a non-Maryland based reinsurer may be designated as a “certified” reinsurer or when to assign an assuming reinsurer as “certified.”

To avoid federal preemption of any part of the mission of the Maryland Insurance Administration (MIA), we need your expeditious and favorable report of Senate Bill 167.

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Uploaded by: Andryszak, Jack

Position: FWA

AMENDMENT TO SENATE BILL 167

(First Reading File Bill)

AMENDMENT NO. 1

On page7, in line 25, after "JURISDICTION" insert "AS DEFINED UNDER SECTION 5-901 (G) (1) AND (2)".

On Behalf Of: Reinsurance Association of America

PURPOSE OF AMENDMENT

This a technical amendment that modifies the provision of the Bill being amended to track the language of the NAIC Model Bill upon which the Bill is based.