2021 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2076

2021 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Fort Union Room, State Capitol

SB 2076
1/12/2021

Relating to reinsurance credit of insurers

Chair Klein opened hearing on SB 2076 [11:13 AM] All members were present. Senators Klein, Larsen, Burckhard, Vedaa, Kreun, Marcellais.
Discussion Topics:

- Insurance enrollments
- Insurance companies

Matt Fischer, Chief Examiner and Director of Company Licensing and Examiners for the ND Department testified in support and submitted testimony #477 [11:14 AM]
Levi Andrist Testified in support and submitted testimony #489 [11:22 AM]

Senator Veeda moved a DO PASS on SB 2076 [11:23 AM]
Senator Larsen seconded [11:23 AM]
[11:23 AM]

Senators	Vote
Senator Jerry Klein	Y
Senator Doug Larsen	Y
Senator Randy A. Burckhard	Y
Senator Curt Kreun	Y
Senator Richard Marcellais	Y
Senator Shawn Vedaa	Y

Motion passed 6-0-0
Senator Klein will carry the bill [11:24 AM]

Adjourned [11:24 AM]

Gail Stanek, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2076: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2076 was placed on the Eleventh order on the calendar.

SENATE BILL NO. 2076

Presented by: **Matt Fischer**
Chief Examiner & Director of Company Licensing & Examinations
North Dakota Insurance Department

Before: **Senate Industry, Business and Labor Committee**
Senator Jerry Klein, Chairman

Date: **January 12, 2021**

TESTIMONY

Good Morning Chairman Klein and members of the committee. My name is Matt Fischer and I am the Chief Examiner & Director of Company Licensing & Examinations for the North Dakota Insurance Department. I appear before you in support of Senate Bill No. 2076.

This bill amends the existing reinsurance credit law in response to the Federal Office of Insurance (FIO) entering into a Covered Agreement with the European Union on September 22, 2017. Subsequently, FIO entered into a separate Covered Agreement with the United Kingdom on December 18, 2018. Under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) if FIO determines that state law is inconsistent with a "covered agreement" than any state law that is deemed inconsistent or results in less favorable treatment to reinsurers from a covered agreement jurisdiction are then preempted by the federal government.

The National Association of Insurance Commissioners (NAIC) adopted a revised credit for reinsurance model in 2019. The revisions allow for countries or jurisdictions, subject to an in-force covered agreement to be considered as Reciprocal Jurisdictions. Reinsurers domiciled in a reciprocal jurisdiction would be able to eliminate collateral and U.S. presence requirements based on meeting and agreeing to various capital requirements. Conversely U.S. reinsurers would also be able to eliminate collateral and presence requirements. The updates being proposed in this bill are based off of this current model adopted by the NAIC. The NAIC, state

insurance departments, and the industry as a whole worked in collaboration to make these revisions to avoid federal preemption of our model of state-based insurance regulation.

Credit for reinsurance refers to the reduction in carried loss reserves that the ceding insurer is allowed to take for reinsurance purchased. The ceding insurer transfers risks of losses over specific amounts to the reinsurance company. While unauthorized reinsurers provide significant reinsurance to U.S. ceding insurers, U.S. insurance commissioners do not directly regulate such reinsurers. Rather, most states currently require that, in order for ceding insurers to obtain full financial statement credit for reinsurance placements with unauthorized reinsurers, reinsurance liabilities must be collateralized at 100 percent. Higher collateralization costs insurers more money which is passed on to policyholders in the form of premium.

Collateral reform efforts have focused upon reinsurers that, despite not being licensed or accredited, are financially strong and are domiciled in jurisdictions (countries) in which the reinsurers are considered well-regulated. In order for a reinsurer to be considered for the elimination of collateral they:

1. Must be domiciled in a reciprocal jurisdiction;
2. Must maintain minimum capital and surplus $250M;
3. Must maintain minimum solvency or capital ratio;
4. Must agree and provide adequate assurances to the Commissioner.

I wanted to draw your attention to a few of the key items in this bill. As noted above regarding the minimum standards that reinsurer must meet, page 13, lines 17-21 the reinsurer's regulatory authority will confirm annually that the reinsurer is meeting the minimum solvency requirements to be considered for the elimination of collateral. Also, on page 14, starting with line 23 this allows the commissioner to remove a reinsurer that no longer meets the requirements for the elimination of collateral. This is an important safeguard to ensure that North Dakota domiciled insurers are working with financially sound reinsurers.

It is important that North Dakota make these changes to show solidarity with other states to fend off more federal regulation of insurance in our state. Other jurisdictions, and some in the industry, are using our stricter collateral requirements as examples of inconsistencies amongst the U.S. regulatory jurisdictions and suggesting one federal regulator would be better.

Not passing the bill could also disadvantage North Dakota domestic insurers seeking to cede risks compared to nondomiciled licensed insurers in the state as they would be able to take advantage of the eliminated collateral requirements if its domiciled state had passed these modifications to the credit for reinsurance, allowing them to take advantage of the elimination of collateral.

SB 2076 conforms to the recently adopted model Credit for Reinsurance law included in the NAIC accreditation program that sets out the requirements for corporate governance filings for insurers. Under the accreditation program, established by the NAIC in 1990, the goal is for each state to adopt certain laws and rules so that multi-state life, health and property and casualty insurers are subject to consistent solvency regulation requirements. North Dakota has maintained its accredited status since 1992 by adopting and implementing the necessary standards to effectively regulate an insurer's corporate and financial affairs. The accreditation program is instrumental in promoting and maintaining state-based regulation of the insurance industry. This model law will become an Accreditation standard effective January 1, 2023. As of December 2, 2020, 16 states have adopted similar legislation and another 13 states have pending legislation.

While this bill as whole is 18 pages long, the changes being made are primarily condensed to pages 10-15. If you like we can go over line by line any of these changes in further detail.

In conclusion, I respectfully request a "do pass" recommendation from this committee on Senate Bill No. 2076. I am happy to take any questions.

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS

Before The
Senate Industry, Business and Labor Committee

January 12, 2021

Senate Bill 2076 – An Act Relating to Reinsurance Credit of Insurers

Chairman Klein and members of the Senate Industry, Business and Labor Committee, I am writing on behalf of the American Council of Life Insurers (ACLI) to express support for Senate Bill 2076, introduced at the request of Insurance Commissioner Godfread. If enacted, S. 2076 would implement the recently adopted 2019 amendments to the NAIC *Credit for Reinsurance Model Law* (#785), facilitating uniformity and cross-border cooperation on reinsurance agreements, to the benefit of U.S. insurers and reinsurers.

ACLI is the leading trade association driving public policy and advocacy on behalf of the life insurance industry and its consumers. Ninety million American families rely on the life insurance industry for financial protection and retirement security. Our member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, and reinsurance as well as supplemental benefits such as dental and vision plans. ACLI's 280 member companies represent 94 percent of industry assets in the United States. Further, ACLI represents all professional life reinsurers assuming mortality and morbidity risks in the U.S.

Background

In June 2019, the National Association of Insurance Commissioners (NAIC) adopted revisions to both the NAIC *Credit for Reinsurance Model Law* (#785) and the *NAIC Credit for Reinsurance Model Regulation* (#786) to align with conditions laid out in 2017 U.S.-European Union (EU) Covered Agreement. Signed on September 22, 2017, the Covered Agreement, among other things, requires states to update reinsurance collateral obligations for qualified EU reinsurers within five years of the Covered Agreement's signing (September 22, 2022) or else be subject to federal preemption by the Federal Insurance Office (FIO). To encourage swift state adoption of the 2019 Credit for Reinsurance Models (#785 and #786), the NAIC has made the Models' amendments an NAIC accreditation standard with an expedited effective date of September 1, 2022.

Senate Bill 2076

The enactment of Senate Bill 2076 is important to insurers doing business in North Dakota for several reasons. It would expand their access to qualifying non-U.S. reinsurers without imposing stringent reinsurance collateral requirements. It would improve the ability of insurers, in their arrangements with reinsurers, to claim reinsurance credit, which is considered an asset (or a reduction in liabilities) for insurers. Finally, by enabling the North Dakota Insurance Department

to retain its NAIC financial regulation accreditation status, it would reinforce the strong state-based regulatory framework that has successfully governed the insurance industry for years.

ACLI applauds North Dakota's leadership in pursuing enactment of the 2019 NAIC Credit for Reinsurance Model Law and its attendant Model Regulation. We encourage the Legislature to adopt Senate Bill 2076 this year to avoid federal preemption by FIO and to ensure that North Dakota and the U.S. remain a thriving, competitive insurance marketplace.

Chairman Klein and members of the Committee, I appreciate the opportunity you have given us to provide our comments on Senate Bill 2076 and stand ready to answer any questions you may have.

Respectfully submitted,

J. Bruce Ferguson
Senior Vice President, State Relations
American Council of Life Insurers
101 Constitution Avenue NW
Washington, DC 20001
bruceferguson@acli.com
202.624.2385
301.980.4820 mobile

2021 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2076

2021 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Room JW327C, State Capitol

SB 2076
3/9/2021

Reinsurance credit of insurers.

(3:00) Chairman Lefor called the hearing to order.

Representatives	Attendance	Representatives	Attendance
Chairman Lefor	P	Rep Ostlie	P
Vice Chairman Keiser	A	Rep D Ruby	A
Rep Hagert	P	Rep Schauer	P
Rep Kasper	P	Rep Stemen	P
Rep Louser	P	Rep Thomas	P
Rep Nehring	P	Rep Adams	P
Rep O'Brien	P	Rep P Anderson	P

Discussion Topics:

- Reinsurance credit law
- Covered Agreement with European Union

Matt Fischer~Chief Examiner & Director of Company Licensing & Examinations-ND Insurance Department. Attachment # 7911.

Bruce Ferguson~Senior Vice President-American Council of Life Insurers. Attachment #8110.

Chairman Lefor closes the hearing.

Rep P Anderson moves a Do Pass.

Rep Stemen second.

Representatives	Vote
Chairman Lefor	Y
Vice Chairman Keiser	A
Rep Hagert	Y
Rep Jim Kasper	Y
Rep Scott Louser	Y
Rep Nehring	Y
Rep O'Brien	Y
Rep Ostlie	Y
Rep Ruby	A
Rep Schauer	Y
Rep Stemen	Y
Rep Thomas	Y
Rep Adams	Y
Rep P Anderson	Y

Vote roll call taken Motion carried 12-0-2 & Rep Hagert is the carrier.

(3:08) End time.

Ellen LeTang, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2076: Industry, Business and Labor Committee (Rep. Lefor, Chairman) recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2076 was placed on the Fourteenth order on the calendar.

SENATE BILL NO. 2076

Presented by: **Matt Fischer**
Chief Examiner & Director of Company Licensing & Examinations
North Dakota Insurance Department

Before: **House Industry, Business and Labor Committee**
Representative Mike Lefor, Chairman

Date: **March 9, 2021**

TESTIMONY

Good afternoon Chairman Lefor and members of the committee. My name is Matt Fischer and I am the Chief Examiner & Director of Company Licensing & Examinations for the North Dakota Insurance Department. I appear before you in support of Senate Bill No. 2076.

This bill amends the existing reinsurance credit law in response to the Federal Office of Insurance (FIO) entering into a Covered Agreement with the European Union on September 22, 2017. Subsequently, FIO entered into a separate Covered Agreement with the United Kingdom on December 18, 2018. Under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) if FIO determines that a state law is inconsistent with a "covered agreement," or results in less favorable treatment to reinsurers from a jurisdiction that is a part of the covered agreement, those state laws are preempted by the federal government.

The National Association of Insurance Commissioners (NAIC) adopted a revised credit for reinsurance model in 2019. The revisions allow for countries or jurisdictions, subject to an in-force covered agreement, to be considered as Reciprocal Jurisdictions. Reinsurers domiciled in a reciprocal jurisdiction would be able to eliminate collateral and U.S. presence requirements based on meeting and agreeing to various capital requirements. Conversely, U.S. reinsurers would also be able to eliminate collateral and presence requirements. The updates being proposed in this bill are based off of this current model adopted by the NAIC. The NAIC, state

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SB 2076 conforms to the NAIC accreditation program that sets out the requirements for the reporting of reinsurance credit. Under the accreditation program, established by the NAIC in 1990, the goal is for each state to adopt certain laws and rules so that multi-state life, health and property and casualty insurers are subject to consistent solvency regulation requirements. North Dakota has maintained its accredited status since 1992 by adopting and implementing the necessary standards to effectively regulate an insurer's corporate and financial affairs. The accreditation program is instrumental in promoting and maintaining state-based regulation of the insurance industry. This model law will become an Accreditation standard effective January 1, 2023. As of February 1, 2021, 18 states have adopted similar legislation and another 17 states have pending legislation.

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ACLI
Financial Security...for Life.

8110

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House Industry, Business and Labor Committee

March 9, 2021

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American Council of Life Insurers
101 Constitution Avenue, NW, Washington, DC 20001-2133
www.acli.com

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Respectfully submitted,

J. Bruce Ferguson
Senior Vice President, State Relations
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