

2016 Regular Session

SENATE BILL NO. 104

BY SENATOR JOHN SMITH

INSURANCE COMMISSIONER. Provides relative to credit for reinsurance for certain health, life, and annuity products. (8/1/16)

1 AN ACT  
2 To amend and reenact R.S. 22:651(A), 652, and 661, relative to credits for reinsurance; to  
3 provide for specific additional requirements relative to the valuation of assets or  
4 reserve credits, for the amount and forms of security supporting reinsurance  
5 arrangements, and the circumstances pursuant to which credit will be reduced or  
6 eliminated; to provide specific authority to promulgate regulations that conform to  
7 National Association of Insurance Commissioners model regulations relative to  
8 reinsurance for certain health, life, and annuity products; and to provide for related  
9 matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 22:651(A), 652, and 661 are hereby amended and reenacted to read  
12 as follows:

13 §651. Reinsurance credits

14 A. The commissioner shall allow credit for reinsurance to a domestic ceding  
15 insurer as either an asset or deduction from liability when the assuming insurer  
16 satisfies the requirements of Subsection B, C, D, E, or F of this Section; **provided**  
17 **further that the commissioner may adopt by regulation pursuant to R.S.**

1       **22:661(B) specific additional requirements relating to or setting forth the**  
 2       **valuation of assets or reserve credits, the amount and forms of security**  
 3       **supporting reinsurance arrangements described in R.S. 22:661(B), or the**  
 4       **circumstances pursuant to which credit will be reduced or eliminated.** The  
 5       commissioner shall allow credit under Subsection B or C of this Section pertaining  
 6       only to cessions of those kinds or classes of business that the assuming insurer is  
 7       licensed or otherwise permitted to write or assume in its state of domicile or, in the  
 8       case of a United States branch of an alien assuming insurer, in the state through  
 9       which it is entered and licensed to transact insurance or reinsurance. The  
 10       commissioner shall allow the credit for reinsurance pursuant to Subsection D of this  
 11       Section only if the assuming insurer satisfies the requirements of Subsection G of  
 12       this Section.

13   \*       \*       \*

14       §652. Reduction from liability for ceded reinsurance

15                 A reduction from liability for the reinsurance ceded by a domestic insurer to  
 16       an assuming insurer that fails to satisfy the requirements of R.S. 22:651 shall be  
 17       allowed in an amount not exceeding the liabilities carried by the ceding insurer, and  
 18       ~~such a~~ **provided further that the commissioner may adopt by regulation**  
 19       **pursuant to R.S. 22:661(B) specific additional requirements relating to or**  
 20       **setting forth the valuation of assets or reserve credits, the amount and forms of**  
 21       **security supporting reinsurance arrangements described in R.S. 22:661(B), or**  
 22       **the circumstances pursuant to which credit will be reduced or eliminated.** The  
 23       reduction shall be in the amount of funds held by or on behalf of the ceding insurer,  
 24       including funds held in trust in this state for the ceding insurer, under a reinsurance  
 25       contract with such assuming insurer as security for the payment of obligations  
 26       thereunder, if such security is held in this state subject to withdrawal solely by, and  
 27       under the exclusive control of, the ceding insurer, or, in the case of a trust, held in  
 28       a qualified United States financial institution, as defined in R.S. 22:653(B). The  
 29       security may be in the form of:

1 (1) Cash.

2 (2) Securities listed by the Securities Valuation Office of the National  
3 Association of Insurance Commissioners (NAIC), including those deemed exempt  
4 from filing as defined by the Purposes and Procedures Manual of the NAIC  
5 Securities Valuation Office, and qualifying as admitted assets.

6 (3)(a) Clean, irrevocable, unconditional letters of credit, issued or confirmed  
7 by a qualified United States financial institution, as defined in R.S. 22:653(A),  
8 effective no later than December thirty-first in respect of the year for which filing is  
9 being made, and in possession of or in trust for the ceding insurer on or before the  
10 filing date of its annual statement.

11 (b) Letters of credit meeting applicable standards of issuer acceptability as  
12 of the dates of their issuance or confirmation shall, notwithstanding the issuing or  
13 confirming institution's subsequent failure to meet applicable standards of issuer  
14 acceptability, continue to be acceptable as security until their expiration, extension,  
15 renewal, modification, or amendment, whichever occurs first.

16 (4) Any other form of security acceptable to the commissioner.

17 \* \* \*

18 §661. Authorization

19 **A.** The commissioner may adopt, pursuant to the provisions of **this Title and**  
20 the Administrative Procedure Act, R.S. 49:950 et seq., rules and regulations to  
21 implement any provision of this Subpart.

22 **B. The commissioner may further adopt rules and regulations applicable**  
23 **to reinsurance arrangements described in Paragraph (1) of this Subsection.**

24 **(1) A regulation adopted pursuant to this Subsection may apply only to**  
25 **reinsurance relating to any or all of the following:**

26 **(a) Life insurance policies with guaranteed nonlevel gross premiums or**  
27 **guaranteed nonlevel benefits.**

28 **(b) Universal life insurance policies with provisions resulting in the**  
29 **ability of a policyholder to keep a policy in force over a secondary guarantee**

1 period.

2 (c) Variable annuities with guaranteed death or living benefits.

3 (d) Long-term care insurance policies.

4 (e) Such other life and health insurance and annuity products as to which  
5 the NAIC adopts model regulatory requirements with respect to credit for  
6 reinsurance.

7 (2) A regulation adopted pursuant to Subparagraph (1)(a) or (1)(b) of  
8 this Subsection may apply to any treaty containing policies issued on or after  
9 January 1, 2015, or policies issued prior to January 1, 2015, if risk pertaining  
10 to such pre-2015 policies is ceded in connection with the treaty, in whole or in  
11 part, on or after January 1, 2015.

12 (3) A regulation adopted pursuant to this Subsection may require the  
13 ceding insurer, in calculating the amounts or forms of security required to be  
14 held under regulations promulgated under this authority, to use the Valuation  
15 Manual adopted by the National Association of Insurance Commissioners  
16 ("NAIC") pursuant to R.S. 22:753(C), including all amendments adopted by the  
17 NAIC and in effect on the date as of which the calculation is made, to the extent  
18 applicable.

19 (4) A regulation adopted pursuant to this Subsection shall not apply to  
20 any cession to an assuming insurer if the assuming insurer meets any of the  
21 following criteria:

22 (a) Is certified in this state or certified in a minimum of five other states.

23 (b) Maintains at least two hundred fifty million dollars in capital and  
24 surplus when determined in accordance with the NAIC Accounting Practices  
25 and Procedures Manual, including all amendments thereto adopted by the  
26 NAIC, excluding the impact of any permitted or prescribed practices, and is  
27 either of the following:

28 (i) Licensed in at least twenty-six states.

29 (ii) Licensed in at least ten states and licensed or accredited in a total of

- 1            **at least thirty-five states.**
- 2                            **(5) The authority to adopt regulations pursuant to this Subsection does**
- 3            **not limit the general authority of the commissioner to adopt regulations**
- 4            **pursuant to Subsection A of this Section or any other provision of this Title.**

The original instrument was prepared by Cheryl Cooper. The following digest, which does not constitute a part of the legislative instrument, was prepared by Laura Gail Sullivan.

DIGEST

SB 104 Engrossed

2016 Regular Session

John Smith

Present law provides for credit for reinsurance ceded by domestic insurers in accordance with the National Association of Insurance Commissioners (NAIC) Model Credit for Reinsurance Law.

Proposed law retains present law and adds provisions recently added to the NAIC Model Credit for Reinsurance Law.

Proposed law provides that the commissioner may adopt specific additional requirements relating to or setting forth the valuation of assets or reserve credits, the amount and forms of security supporting reinsurance arrangements, or the circumstances pursuant to which credit will be reduced or eliminated.

Present law provides for the commissioner of insurance to promulgate rules and regulations in accordance with the Administrative Procedure Act.

Proposed law retains present law and further provides that the commissioner may adopt rules and regulations applicable to the following reinsurance arrangements:

- (1) An adopted regulation may apply only to reinsurance relating to any or all of the following:
  - (a) Life insurance policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits.
  - (b) Universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period.
  - (c) Variable annuities with guaranteed death or living benefits.
  - (d) Long-term care insurance policies.
  - (e) Such other life and health insurance and annuity products as to which the NAIC adopts model regulatory requirements with respect to credit for reinsurance.
- (2) Proposed law further provides that a regulation adopted pursuant to proposed law may apply to any treaty containing policies issued on or after January 1, 2015, or policies issued prior to January 1, 2015, if risk pertaining to such pre-2015 policies is ceded in connection with the treaty, in whole or in part, on or after January 1, 2015.

Proposed law allows a regulation adopted pursuant to proposed law to require the ceding

insurer, in making certain calculations, to use the Valuation Manual adopted by NAIC.

Proposed law prohibits a regulation adopted pursuant to proposed law from applying to any cession to an assuming insurer if the assuming insurer meets any of the following criteria:

- (1) Is certified in this state or in a minimum of five other states.
- (2) Maintains at least \$250 million in capital and surplus determined under certain NAIC procedures and is either:
  - (a) Licensed in at least 26 states.
  - (b) Licensed at least ten states and licensed or accredited in a total of at least 35 states.

Proposed law specifies the authority to adopt regulations pursuant to proposed law does not limit the commissioner's general authority to adopt regulations pursuant to present law.

Effective August 1, 2016.

(Amends R.S. 22:651(A), 652, and 661)

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Insurance to the original bill

1. Allow a regulation adopted pursuant to proposed law to require use of the NAIC Valuation Manual for certain calculations.
2. Prohibit a regulation adopted pursuant to proposed law from applying to any cession to an assuming insurer who meets certain criteria.
3. Specify the authority to adopt regulations pursuant to proposed law does not limit the commissioner's general authority to adopt regulations pursuant to present law.