State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Scott Walker, Governor
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Wisconsin.gov

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STATEMENT OF SCOPE OF A PROPOSED RULE

Agency #145 Office of the Commissioner of Insurance Chapter Ins 52, Wis. Adm. Code, relating to Credit for Reinsurance

Rule Type:

_____	**Emergency**
___X___	**Permanent**
_____	**Both Emergency and Permanent**

1. Finding/nature of emergency:

N/A

2. Detailed description of the objective of the rule:
The rule change would modernize Wisconsin's credit for reinsurance provisions to align them with the federal Nonadmitted and Reinsurance Reform Act and to the more recent amendments to the National Association of Insurance Commissioners ("NAIC") model law from which Wisconsin's regulation is based. Chapter Ins 52, Wis. Adm. Code has not been amended since 1995. The regulation as currently written requires that, for licensed insurers to take credit for reinsurance, the assuming reinsurer must place in trust collateral in an amount equal to the reinsurer's liability to the ceding insurer. The amendments proposed by this rule would introduce the concept of certified reinsurers from the most recent NAIC model amendments. Reinsurers would be certified by the commissioner at different levels based on their financial strength ratings. The collateral requirements for certified reinsurers would differ based on the reinsurer's certification level. Reinsurers with a higher level of certification would have lower collateral requirements than are traditionally required to be credited. Reinsurers certified at lower levels would have the same collateral requirements as current law to be credited. By making these revisions, Wisconsin would modernize its reinsurance provisions and these changes would be consistent with changes made or in the process of being made in other states.

The NAIC is a standard setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia and five U.S. territories. It develops model laws and regulations using a committee structure that includes both members of the committee and interested regulators. The NAIC also provides an accreditation process for state insurance

departments. Accreditation of the Office of the Commissioner of Insurance (OCI) by the NAIC helps Wisconsin insurers by ensuring that the OCI has full regulatory authority over its domestic insurers. It accomplishes this by subjecting domestic insurers to financial regulation only by their domestic commissioner if the state is accredited. Because Wisconsin is accredited, Wisconsin insurers are not subject to separate financial regulation in every state in which they do business. The model laws and regulations developed by the NAIC frequently become accreditation standards and therefore it is important to implement these changes into the current Wisconsin credit for reinsurance provisions.

3. **Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives; the history, background, and justification for the proposed rule:**

Wisconsin currently has credit for reinsurance requirements in ch. Ins 52, Wis. Adm. Code. The new policy would modernize the provisions making them similar to those adopted or in the process of being adopted in other states creating national uniformity. The changes would also bring the rules in compliance with The Nonadmitted and Reinsurance Reform Act which preempts the extraterritorial application of state credit for reinsurance requirements. The alternative is to leave the current rule in place and not enforce those provisions preempted by federal law.

4. **Detailed statutory authority for the rule (including the statutory citation and language):** *The agency shall reference each statute that authorizes the promulgation of the proposed rule and each statute or rule that will affect the proposed rule or be affected by it. The agency shall also explain in detail the agency's authority to promulgate the proposed rule under those statutes. An agency shall rely on an explicit grant of authority from the Legislature to promulgate a rule, if one exists. An agency shall not rely upon general statements of legislative purpose or legislative findings or agency general powers and duties clauses to confer authority to promulgate rules.*

The statutory authority for this rule is s. 227.11 (2) (a), , s. 620.03, s.620.21, s. 620.22, S. 623.02, s. 623.03, s. 623.04, and s. 623.21 Stats. which generally regulate how insurers account for assets and liabilities and specifically s. 627.23 Stat. which addresses credit for reinsurance.

5. **Estimates of the amount of time that state employees will spend to develop the rule and of other resources necessary to develop the rule:**

200 hours and no other resources are necessary to develop the rule.

6. **List with description of all entities that may be impacted by the rule:** *This includes a description of any local governmental units, businesses, economic sectors, or public utility ratepayers who may reasonably be anticipated to be affected by the rule.*

The update of Wisconsin's standards to match those in other states will create uniformity. This uniformity along with the potential lower collateral requirements could entice more reinsurers to do business in Wisconsin. Reinsurers operating in the state will be subject to new rules and potentially lower collateral requirements. However, only reinsurers that demonstrate financial soundness to the commissioner's satisfaction will be allowed to have low collateral requirements for

licensed insurers to take credit for risk ceded to them. Domestic insurers who cede liability to these reinsurers will be indirectly affected by this change. In the unlikely event a reinsurer had difficulty paying claims made by the ceding domestic insurer, the lower collateral requirements could slightly increase the risk the ceding domestic insurer will not receive a full recovery. Because the reduced collateral requirements are tied to the reinsurer's financial strength, this risk should be mitigated.

7. Summary and preliminary comparison of any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule:

There are no existing or proposed federal regulations intended to address this area. The federal Nonadmitted and Reinsurance Reform Act precludes the extraterritorial application of state credit for reinsurance requirements.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

significant economic impact on small businesses?

____ yes
___X_ no

local/statewide economic impact (choose one)

_X_ minimal or none (< or = $50,000)
___ moderate ($50,000--$20,000,000)
___ significant (>$20,000,000)

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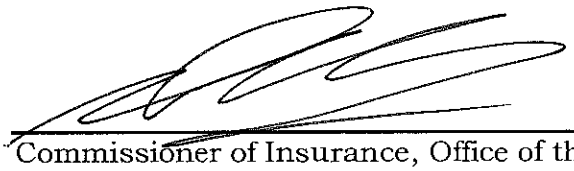

Commissioner of Insurance, Office of the Commissioner of Insurance

9/25/2014

Date Submitted to Governor