

111TH CONGRESS
2^D SESSION

H. R. 6529

To amend title 31, United States Code, to provide for a Federal license for reinsurers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 16, 2010

Mr. MOORE of Kansas introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend title 31, United States Code, to provide for a Federal license for reinsurers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal License for
5 Reinsurers Act of 2010”.

6 **SEC. 2. AMENDMENTS TO TITLE 31, UNITED STATES CODE.**

7 Section 313 of title 31, United States Code, is
8 amended—

9 (1) in subsection (b)—

1 (A) by striking “The Office” and inserting
2 the following:

3 “(1) LEADERSHIP.—The Office”; and

4 (B) by adding at the end the following new
5 paragraph:

6 “(2) EMPLOYEES.—

7 “(A) NUMBER AND COMPENSATION.—The
8 Director shall fix the number of employees of
9 the Office and the compensation of such em-
10 ployees, as necessary to carry out the provisions
11 of this section without regard to chapter 51 or
12 subchapter III of chapter 53 of title 5.

13 “(B) ADDITIONAL COMPENSATION AND
14 BENEFITS.—Notwithstanding subparagraph
15 (A), the Director may provide additional com-
16 pensation and benefits if the same type of com-
17 pensation or benefits are then being provided by
18 any Federal banking agency or, if not then
19 being provided, could be provided by any such
20 agency under applicable provisions of law or
21 regulation. In setting and adjusting the total
22 amount of compensation and benefits for em-
23 ployees of the Office, the Director shall consult,
24 and seek to maintain comparability with, the
25 Federal banking agencies.”;

1 (2) in subsection (c)(1)—

2 (A) in subparagraph (E), by striking “sub-
3 section (r)” and inserting “subsection (s)”;

4 (B) by redesignating subparagraphs (G)
5 and (H) as subparagraphs (H) and (I), respec-
6 tively; and

7 (C) by inserting after subparagraph (F)
8 the following new subparagraph:

9 “(G) with respect to the business of rein-
10 surance—

11 “(i) to license entities to transact the
12 business of reinsurance as a national rein-
13 surer pursuant to subsection (h)(1);

14 “(ii) to revoke, suspend, or restrict a
15 Federal license pursuant to (h)(1)(B);

16 “(iii) to coordinate Federal efforts
17 and establish Federal policy on inter-
18 national matters related to reinsurance, in-
19 cluding working with international regu-
20 latory and standard-setting bodies;

21 “(iv) to assist the Secretary in enter-
22 ing into supervisory arrangements author-
23 ized under subsection (h);

24 “(v) to establish and enforce appro-
25 priate standards and requirements gov-

1 erning national reinsurers consistent with
2 criteria in subsection (h)(5);

3 “(vi) to determine that any State law,
4 regulation, or action is preempted as being
5 contrary to or inconsistent with the pur-
6 poses of subsection (h) and this subpara-
7 graph;

8 “(vii) to assess and collect reasonable
9 fees from authorized foreign reinsurers for
10 reimbursement of costs incurred by the Di-
11 rector related to supervisory arrangements;
12 and

13 “(viii) to assess and collect reasonable
14 fees from national reinsurers for the reim-
15 bursement of costs incurred by the Direc-
16 tor for licensing and examination of na-
17 tional reinsurers;”;

18 (3) in subsection (f)—

19 (A) in paragraph (1), by striking “A
20 State” and inserting “Except as provided in
21 subsection (h), a State”; and

22 (B) in paragraph (2)(B), by inserting after
23 “insurance measures,” the following: “except as
24 provided in subsection (h),”;

1 (4) in subsection (g), by inserting after “deter-
2 mination of inconsistency,” the following: “except as
3 provided in subsection (h),”;

4 (5) by redesignating subsections (h), (i), (j),
5 (k), (l), (m), (n), (o), (p), (q), (r), and (s) as sub-
6 sections (i), (j), (k), (l), (m), (n), (o), (p), (q), (r),
7 (s), and (t), respectively;

8 (6) by inserting after subsection (g) the fol-
9 lowing new subsection:

10 “(h) AUTHORITY WITH RESPECT TO REINSUR-
11 ANCE.—

12 “(1) LICENSING OF NATIONAL REINSURERS.—

13 “(A) LICENSING.—

14 “(i) IN GENERAL.—The Director shall
15 establish criteria necessary for the licens-
16 ing and operation of a national reinsurer.

17 “(ii) ELIGIBILITY.—A United States
18 entity shall be eligible to apply for a Fed-
19 eral license under this subsection to trans-
20 act the business of reinsurance upon dem-
21 onstration to the Director that the entity
22 meets the definition of reinsurer under this
23 section and all other criteria established by
24 the Director.

1 “(iii) NON-UNITED STATES ENTI-
2 TIES.—A non-United States entity may ob-
3 tain a Federal license under this sub-
4 section through the establishment of a
5 United States branch which meets the eli-
6 gibility requirements under clause (ii) and
7 such other regulations as the Director may
8 prescribe.

9 “(iv) ISSUANCE OF LICENSE.—If the
10 Director determines that the applicant has
11 satisfied the applicable eligibility require-
12 ments, the Director shall issue a Federal
13 license to the applicant to transact the
14 business of reinsurance.

15 “(B) REVOCATION, SUSPENSION, OR RE-
16 STRICTION OF FEDERAL LICENSE.—The Direc-
17 tor may revoke, suspend, or restrict a Federal
18 license whenever the Director determines that
19 the licensed entity is no longer operating in a
20 manner consistent with the criteria for licensing
21 and operation established by the Director.

22 “(C) CONVERSION TO STATE LICENSE.—A
23 national reinsurer may convert to a State-li-
24 censed reinsurer in accordance with applicable
25 State law if—

1 “(i) such entity notifies the Director
2 of its intention to convert in accordance
3 with such procedures as the Director may
4 prescribe by regulation;

5 “(ii) after conducting an appropriate
6 review, the Director approves the conver-
7 sion.

8 “(D) APPLICABILITY OF THE BANKRUPTCY
9 CODE.—A delinquency proceeding for the liq-
10 uidation or reorganization of a United States
11 national reinsurer shall proceed under the pro-
12 visions of title 11.

13 “(2) SUPERVISORY ARRANGEMENTS.—

14 “(A) AUTHORITY.—In order to realize the
15 efficiencies and consumer benefits of a more
16 harmonized international reinsurance regulatory
17 system, the Secretary and the United States
18 Trade Representative, jointly, shall be author-
19 ized to enter into supervisory arrangements for
20 the recognition of qualified reinsurance super-
21 visory authorities of non-United States jurisdic-
22 tions that provide a level of protection for
23 United States reinsurance consumers that is
24 substantially equivalent to the level of protec-

1 tion achieved by the Director pursuant to the
2 provisions of this subsection.

3 “(B) EXCHANGE OF INFORMATION.—The
4 entry into supervisory arrangements with quali-
5 fied supervisory authorities of non-United
6 States jurisdictions shall be preceded by an ex-
7 change and evaluation of relevant information
8 regarding the form and nature of regulation in
9 each such jurisdiction and the Secretary’s de-
10 termination that such jurisdiction’s supervisory
11 authority maintains and applies legal standards,
12 regulatory requirements, and enforcement capa-
13 bilities substantially equivalent to those applied
14 by the Director, and that the awards of arbitra-
15 tion panels and judgments of appropriate
16 United States courts are enforceable and col-
17 lectable in the jurisdiction, pursuant to treaty,
18 other agreement, or operation of that jurisdic-
19 tion’s law.

20 “(C) REQUIREMENTS FOR VALIDITY.—The
21 Secretary and the United States Trade Rep-
22 resentative may enter into supervisory arrange-
23 ments only in cases in which the Secretary has
24 determined that the requirements of subpara-

1 graph (B) have been satisfied and the arrange-
2 ment explicitly provides for all of the following:

3 “(i) Identification of areas of regula-
4 tion that will be the exclusive responsibility
5 of the respective jurisdictions.

6 “(ii) The reciprocal treatment of rein-
7 surance entities in accordance with each
8 subject jurisdiction’s rules and regulations.

9 “(iii) A commitment to exchange rel-
10 evant information on an on-going basis.

11 “(iv) A process for resolving disputed
12 issues.

13 “(v) The application of chapter 15 of
14 title 11 to cross-border insolvency cases in-
15 volving entities from the subject jurisdic-
16 tion.

17 “(vi) The terms and conditions for
18 terminating the supervisory arrangement.

19 “(D) STATUS OF AUTHORIZED FOREIGN
20 REINSURERS.—An authorized foreign reinsurer
21 shall be authorized to transact the business of
22 reinsurance to the extent authorized by the ap-
23 plicable supervisory arrangement.

24 “(3) PREEMPTION OF STATE LAW.—

1 “(A) INCONSISTENT LAWS.—All laws, reg-
2 ulations, provisions, or other actions of a State
3 contrary to or inconsistent with the purposes of
4 this subsection, except those which may be ap-
5 plicable to corporate taxes generally, are pre-
6 empted to the extent that they apply to national
7 reinsurers or authorized foreign reinsurers, or
8 to their reinsurance agreements.

9 “(B) LAWS WITH DISPARATE TREAT-
10 MENT.—All laws, regulations, provisions, or
11 other actions of a State are preempted to the
12 extent that national reinsurers or authorized
13 foreign reinsurers receive more or less favorable
14 treatment than State licensed insurers or rein-
15 surers pursuant to such laws, regulations, pro-
16 visions, or other actions, solely on the basis of
17 an entity’s status as a national reinsurer or au-
18 thorized foreign reinsurer.

19 “(C) PROHIBITION OF INTERFERENCE.—
20 No State shall interfere, directly or indirectly,
21 with a United States insurer or reinsurer—

22 “(i) applying for a Federal license or
23 operating as a national reinsurer; or

24 “(ii) ceding insurance to a national
25 reinsurer or an authorized foreign rein-

1 surer for any purpose under this sub-
2 section.

3 “(D) CREDIT FOR REINSURANCE.—No
4 State shall deny credit, either as an asset or a
5 reduction of liabilities, on account of reinsur-
6 ance ceded to a national reinsurer or an author-
7 ized foreign reinsurer under this subsection.

8 “(E) PROHIBITION OF ENFORCEMENT.—
9 No State shall enforce a State law, regulation,
10 provision, or other action to the extent that it
11 is preempted pursuant to this paragraph.

12 “(F) DETERMINATIONS BY DIRECTOR.—
13 “(i) PREEMPTION.—The Director
14 shall be authorized to determine that any
15 State law, regulation, provision, or action
16 shall be preempted pursuant to this para-
17 graph.

18 “(ii) JUDICIAL REVIEW.—Any State
19 or any other person aggrieved by action of
20 the Director under this paragraph may
21 seek judicial review in the manner specified
22 in chapter 7 of title 5.

23 “(4) COOPERATION BETWEEN THE DIRECTOR
24 AND STATE INSURANCE REGULATORS.—The Direc-
25 tor shall—

1 “(A) consult, as the Director deems appro-
2 priate, with the relevant State insurance regu-
3 lators concerning regulatory matters;

4 “(B) notify all State insurance regulators
5 of supervisory arrangements entered into pursu-
6 ant to paragraph (2); and

7 “(C) notify the relevant State insurance
8 regulators of a change in the status of, or any
9 administrative action taken by the Director
10 against, a national reinsurer or an authorized
11 foreign reinsurer.

12 “(5) RULES AND REGULATIONS.—

13 “(A) IN GENERAL.—The Director shall
14 adopt regulations implementing the provisions
15 of this subsection. The Director may issue any
16 other rules, regulations, orders, or interpreta-
17 tions as the Director determines to be necessary
18 to carry out the purposes of this subsection.

19 “(B) CRITERIA.—The rules and regula-
20 tions prescribed under subparagraph (A) shall
21 give due consideration to—

22 “(i) promoting financially secure rein-
23 surance recoverables and capacity that pro-
24 tects the solvency of United States ceding
25 insurers;

1 “(ii) the need for a competitive and
2 healthy reinsurance market that provides
3 sufficient capacity to meet ceding compa-
4 nies’ risk management needs through open
5 market contracting and pricing practices;

6 “(iii) global capital and risk manage-
7 ment, taking into account capital ade-
8 quacy, assessment of internal controls, rec-
9 ognition of qualified internal capital mod-
10 els, and effective corporate governance;

11 “(iv) financial transparency that en-
12 courages and supports the cedents’ ability
13 to assess counter party credit risk, includ-
14 ing information regarding the national re-
15 insurer’s financial condition and the na-
16 tional reinsurer’s performance in paying
17 covered claims;

18 “(v) access to all necessary financial
19 information, with appropriate provision for
20 the confidentiality of that information; and

21 “(vi) harmonization with international
22 standards for the prudential regulation of
23 the business of reinsurance.

24 “(6) IMPLEMENTATION.—

1 “(A) LICENSING.—The Director shall com-
2 mence licensing of national reinsurers and the
3 entry into supervisory arrangements after pro-
4 mulgation of final rules and regulations under
5 this subsection, which shall occur not later than
6 the expiration of the 2-year period beginning on
7 the date of the enactment of this subsection.

8 “(B) APPLICABILITY.—The provisions of
9 this subsection shall apply only to reinsurance
10 agreements and supervisory arrangements en-
11 tered into on or after the date of the enactment
12 of this subsection.

13 “(7) EFFECT OF STATUS.—There shall be no
14 determination under section 113 of the Dodd-Frank
15 Wall Street Reform and Consumer Protection Act
16 that an entity is subject to supervision by the Board
17 of Governors of the Federal Reserve System and
18 subject to prudential standards (as such term is de-
19 fined in such Act), in accordance with title I of such
20 Act, on account of an entity’s status as a national
21 reinsurer or authorized foreign reinsurer.”;

22 (7) in subsection (k)(1), as so redesignated, by
23 inserting “except as provided in subsection (h),” be-
24 fore “preempt—”;

1 (8) in subsection (l), as so redesignated, by
2 striking “Nothing” and inserting “Except as pro-
3 vided in subsections (c) and (h), nothing”; and

4 (9) in subsection (s), as so redesignated—

5 (A) by redesignating paragraphs (2), (3),
6 (4), (5), (6), (7), (8), (9), and (10) as para-
7 graphs (3), (4), (6), (8), (9), (12), (13), (14),
8 and (15), respectively;

9 (B) by inserting after paragraph (1) the
10 following new paragraph:

11 “(2) AUTHORIZED FOREIGN REINSURER.—The
12 term ‘authorized foreign reinsurer’ means a rein-
13 surer that is domiciled in and subject to the regula-
14 tion of a non-United States jurisdiction’s supervisory
15 authority that has entered into a supervisory ar-
16 rangement with the Director.”;

17 (C) by inserting after paragraph (4), as so
18 redesignated, the following new paragraph:

19 “(5) FEDERAL BANKING AGENCY.—The term
20 ‘Federal banking agency’ shall have the meaning
21 give such term under section 2 of the Dodd-Frank
22 Wall Street Reform and Consumer Protection Act.”;

23 (D) by inserting after paragraph (6), as so
24 redesignated, the following new paragraph:

1 “(7) NATIONAL REINSURER.—The term ‘na-
2 tional reinsurer’ means an entity to which the Direc-
3 tor has issued a Federal license under subsection
4 (h)(1) to transact the business of reinsurance.”; and

5 (E) by inserting after paragraph (9), as so
6 redesignated, the following new paragraphs:

7 “(10) REINSURANCE.—The term ‘reinsurance’
8 means the assumption by an insurer of all or part
9 of a risk undertaken originally by another insurer.

10 “(11) REINSURER.—The term ‘reinsurer’
11 means, as determined by the Director, an insurer, to
12 the extent that the insurer—

13 “(A) is principally engaged in the business
14 of reinsurance;

15 “(B) does not conduct significant amounts
16 of direct insurance as a percentage of its net
17 premiums; and

18 “(C) is not engaged in an ongoing basis in
19 the business of soliciting direct insurance.”.

20 **SEC. 3. AMENDMENTS TO DODD-FRANK.**

21 (a) SECTION 111.—Section 111(b) of the Dodd-
22 Frank Wall Street Reform and Consumer Protection Act
23 is amended—

24 (1) in paragraph (1)—

1 (A) in subparagraph (I), by striking “and”
2 at the end;

3 (B) by redesignating subparagraph (J) as
4 subparagraph (K); and

5 (C) by inserting after subparagraph (I) the
6 following new subparagraph:

7 “(J) the Director of the Federal Insurance
8 Office; and”; and
9 (2) in paragraph (2)—

10 (A) by striking subparagraph (B); and

11 (B) by redesignating subparagraphs (C),
12 (D), and (E) as subparagraphs (B), (C), and
13 (D), respectively.

14 (b) SECTION 112.—Section 112 of such Act is
15 amended—

16 (1) in subsection (a)(2), by striking “the Fed-
17 eral Insurance Office”; and

18 (2) in subsection (d)—

19 (A) in paragraph (1), by striking “, mem-
20 ber agencies, and the Federal Insurance Office”
21 and inserting “and member agencies”;

22 (B) in paragraph (2), by striking “, any
23 member agency, and the Federal Insurance Of-
24 fice,” and inserting “and any member agency”.

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