SENATE BILL NO. 2076

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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.