American Property Casualty Insurance Association

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VIA Email: HouseCorporations@rilegislature.gov

March 2, 2021

Representative Joseph J. Solomon, Jr.
Chair, House Committee On Corporations
Rhode Island State House
Providence, RI 02903

Re: House 5510 – An Act Relating To Insurance – Credit For Reinsurance Act

Dear Mr. Chairman:

This statement in support of House 5510 is submitted by the American Property Casualty Insurance Association (APCIA).

Representing nearly 60% of the U.S. property casualty insurance market, APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers. APCIA represents the broadest cross-section of home, auto, and business insurers of any national trade association. APCIA members represent all sizes, structures, and regions, which protect families, communities, and businesses in the U.S. and across the globe. Several APCIA members are located in Rhode Island and many more do business here. Together, APCIA members write almost 63% of insurance sold in the state.

House 5510 is a very important bill that updates the state's insurance code to bring the state into compliance with the National Association of Insurance Commissioners (NAIC) Credit For Reinsurance Model Law. Passage of this law will allow the state's Department of Business Regulation to maintain its NAIC Accreditation and to continue to regulate reinsurance transactions.

The Dodd-Frank Act authorized the U.S. Treasury Department and the United States Trade Representative (USTR) to negotiate a "Covered Agreement" with foreign governments. (A Covered Agreement relates to prudential measures with respect to the business of insurance and reinsurance). In 2017, Treasury and USTR submitted to the Congress the text of a Covered Agreement negotiated with the European Union (EU) and later negotiated an identical agreement with the United Kingdom (UK) to accommodate Brexit.

Among other things, the Covered Agreement commits the U.S. to eliminating current state law requirements that EU reinsurers post collateral in the U.S. to protect their obligations to U.S. insurers ceding risks to those EU reinsurers. In return, the U.S. allows U.S. insurers with EU operations to avoid burdensome worldwide group capital, corporate governance, and reporting requirements as well as EU local presence and collateral requirements for U.S. reinsurers.

In order to get the benefit of collateral elimination, the Covered Agreements provide that EU and UK reinsurers and the foreign jurisdictions that regulate them must meet certain stringent financial and regulatory requirements to protect U.S. insurers that cede risks to EU and UK reinsurers.

In the event states fail to bring their reinsurance collateral laws into compliance with the Covered Agreements by September of 2022, the Dodd-Frank Act provides that those state laws can be preempted by the Covered Agreement. The Federal Insurance Office will begin evaluating potential preemption determinations in March of 2021.

In 2019, in part to avoid state law preemption, the NAIC approved changes to its Credit for Reinsurance Model Law to implement the Covered Agreements and eliminate state collateral requirements for EU and UK reinsurers. To maintain a level playing field, the NAIC also took steps to provide similar collateral reductions for certain reinsurers outside of the EU, including Bermuda, Switzerland, and Japan (countries that already qualify for reduced – but not zero -- collateral for their reinsurers under existing state rules).

The NAIC is in the process of making the revisions to the models an accreditation standard, which is expected to take effect in September of 2022. States that fail to adopt the changes by September 2022 could lose their NAIC accreditation (in addition to have their laws preempted under the covered agreements). For their part, the individual states are seeking to move bills such as House 5510 to adopt the changes. Vermont acted last year, Maine reported a similar bill earlier this year, and Massachusetts is expected to act on its legislation this session.

In summary, APCIA supports the passage of state legislation based on the revised NAIC Model Credit for Reinsurance Law, such as House 5510. The stringent requirements placed on non-U.S. assuming reinsurers are more than adequate to protect the interests of U.S. ceding insurers. Most importantly, implementing the model will avoid state law preemption in 2022.

For all of these reasons, APCIA supports House 5510 and urges the committee to act favorably on it.

Very truly yours,

Francis C. O'Brien

Francis C. O'Brien
Vice President, State Gov't. Relations

CC Members of the House Corporations Committee