

111TH CONGRESS  
2D SESSION

# H. R. 6529

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

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## 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

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## 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-

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

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

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

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

(3) in subsection (f)—

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

(B) in paragraph (2)(B), by inserting after  
“insurance measures,” the following: “except as  
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-

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

“(B) EXCHANGE OF INFORMATION.—The entry into supervisory arrangements with qualified supervisory authorities of non-United States jurisdictions shall be preceded by an exchange and evaluation of relevant information regarding the form and nature of regulation in each such jurisdiction and the Secretary’s determination that such jurisdiction’s supervisory authority maintains and applies legal standards, regulatory requirements, and enforcement capabilities substantially equivalent to those applied by the Director, and that the awards of arbitration panels and judgments of appropriate United States courts are enforceable and collectable in the jurisdiction, pursuant to treaty, other agreement, or operation of that jurisdiction’s law.

“(C) REQUIREMENTS FOR VALIDITY.—The Secretary and the United States Trade Representative may enter into supervisory arrangements only in cases in which the Secretary has determined that the requirements of subpara-



graph (B) have been satisfied and the arrangement explicitly provides for all of the following:

“(i) Identification of areas of regulation that will be the exclusive responsibility of the respective jurisdictions.

“(ii) The reciprocal treatment of reinsurance entities in accordance with each subject jurisdiction’s rules and regulations.

“(iii) A commitment to exchange relevant information on an on-going basis.

“(iv) A process for resolving disputed issues.

“(v) The application of chapter 15 of title 11 to cross-border insolvency cases involving entities from the subject jurisdiction.

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

“(D) STATUS OF AUTHORIZED FOREIGN REINSURERS.—An authorized foreign reinsurer shall be authorized to transact the business of reinsurance to the extent authorized by the applicable supervisory arrangement.

“(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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