

RAFSA Includes Measures For Reinsurance Reform

BY ROLLIE GOSS

On March 22, 2010, the Senate Committee on Banking, Housing and Urban Affairs (the Senate Committee) approved on a party-line vote the Restoring American Financial Stability Act of 2009 (RAFSA). RAFSA would make a wide variety of far-reaching and comprehensive regulatory reforms that are in many respects similar to those included in H.R. 4173, which was passed in the House of Representatives on December 11, 2009. The Senate Committee considered only relatively limited changes, which were contained in a “manager’s amendment” that was also approved by party-line vote. It will be up to the full Senate to consider the many additional amendments that are expected to be put forward.

Three portions of RAFSA may be of interest to those in the reinsurance industry. First, RAFSA contains a version of reinsurance-specific proposed legislation that has been introduced in Congress as separate bills since at least 2006. This proposed legislation, known as the Nonadmitted and Reinsurance Reform Act, is also included in similar form in H.R. 4173. This portion of RAFSA would:

- regulate premium taxes for nonadmitted insurance;
- provide that the placement of nonadmitted insurance shall be subject to regulation solely by the insured’s home state;
- limit the ability of a state to establish eligibility requirements for U.S.-domiciled nonadmitted insurers that vary from the Non-Admitted Insurance Model Act;
- require a GAO study of the nonadmitted insurance market;
- regulate the extent to which a state may not recognize credit for reinsurance for an insurer’s ceded risk;
- partially pre-empt the extraterritorial application of the law of a state to a ceding insurer not domiciled in that state; and
- provide that in most circumstances a state that is the domicile of a reinsurer shall be solely responsible for regulating its financial solvency.

Second, RAFSA would establish an Office of National Insurance, which, similar to the House bill, would be largely information-gathering, policy-planning, and advisory in nature, except that it would play a lead role in international policy development.

RAFSA also contains provisions for imposing system risk regulation upon certain companies or activities, or liquidating companies that become a threat to the economy. Although it is possible that such provisions might be applied to companies in the reinsurance industry, such companies are not among those that prompted these provisions.



Building plans for Office of National Insurance potentially in the works