

3/5/98 Commerce
3/17/98 Do Pass
5. 3/26/98 UNFINISHED BUSINESS CALENDAR

FEB 26 1998

Place On Calendar

HOUSE FILE 2469
BY COMMITTEE ON COMMERCE
AND REGULATION

(SUCCESSOR TO HSB 651)

Passed House, Date ^(p.542) 3/5/98 Passed Senate, Date _____
Vote: Ayes 95 Nays 1 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to a reinsurer's liability.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2469

1 Section 1. Section 507C.32, Code 1997, is amended to read
2 as follows:

3 507C.32 REINSURER'S LIABILITY.

4 Notwithstanding a provision in the reinsurance contract or
5 other agreement, the amount recoverable by the liquidator from
6 reinsurers shall not be reduced as a result of delinquency
7 proceedings. Payment made directly to an insured or other
8 creditor shall not diminish the reinsurer's obligation to the
9 insurer's estate except when ~~the reinsurance contract provided~~
10 ~~for direct coverage of a named insured and the payment was~~
11 ~~made in discharge of that obligation~~ either of the following
12 applies:

13 1. The contract or other written agreement specifically
14 provides for another payee of the reinsurance in the event of
15 the insolvency of the ceding insurer.

16 2. The assuming insurer, with the consent of the direct
17 insured, has assumed the policy obligations of the ceding
18 insurer as direct obligations of the assuming insurer to the
19 payees under the policies and in substitution for the
20 obligations of the ceding insurer to the payees.

21 EXPLANATION

22 The bill provides that the reinsurer's obligation to the
23 insurer's estate is not reduced as a result of delinquency
24 proceedings except when the agreement provides for another
25 payee of the reinsurance to make payment or when an assuming
26 insurer has assumed the policy obligations of the ceding
27 insurer.

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Dix
Sukup
Weigel

HSB 651

COMMERCE AND REGULATION

Succeeded By

HOUSE FILE

SE (HF) 2469

BY (PROPOSED COMMITTEE ON

COMMERCE AND REGULATION

BILL BY CHAIRPERSON

METCALF)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to a reinsurer's liability.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 507C.32, Code 1997, is amended to read
2 as follows:

3 507C.32 REINSURER'S LIABILITY.

4 1. Notwithstanding a provision in the reinsurance contract
5 or other agreement, the amount recoverable by the liquidator
6 from reinsurers shall not be reduced as a result of
7 delinquency proceedings. Payment made directly to an insured
8 or other creditor shall not diminish the reinsurer's
9 obligation to the insurer's estate except when the reinsurance
10 contract provided for direct coverage of a named insured and
11 the payment was made in discharge of that obligation either of
12 the following applies:

13 a. The contract or other written agreement specifically
14 provides for another payee of the reinsurance in the event of
15 the insolvency of the ceding insurer.

16 b. The assuming insurer, with the consent of the direct
17 insured, has assumed the policy obligations of the ceding
18 insurer as direct obligations of the assuming insurer to the
19 payees under the policies and in substitution for the
20 obligations of the ceding insurer to the payees.

21 2. The domiciliary liquidator of an insolvent ceding
22 insurer shall give written notice to the assuming insurer of
23 the pendency of a claim against the ceding insurer on the
24 contract reinsured within a reasonable time after the claim is
25 filed in the liquidation proceeding. During the pendency of
26 the claim, any assuming insurer may investigate the claim and
27 interpose, at its own expense, in the proceeding where the
28 claim is to be adjudicated, any defenses that the assuming
29 insurer deems available to the ceding insurer or its
30 liquidator. The expense may be filed as a claim against the
31 insolvent ceding insurer as part of the expense of
32 liquidation. The expense shall be allowed to the extent of
33 any proportionate share of the benefit of the defense accruing
34 to the ceding insurer solely as a result of the defense
35 undertaken by the assuming insurer. If two or more assuming

1 insurers are involved in the same claim and a majority in
2 interest elect to interpose any defense to the claim, the
3 expense shall be apportioned in accordance with the terms of
4 the reinsurance agreement as though the expense had been
5 incurred by the ceding insurer.

6 EXPLANATION

7 The bill provides that the reinsurer's obligation to the
8 insurer's estate is not reduced as a result of delinquency
9 proceedings except when the agreement provides for another
10 payee of the reinsurance to make payment or when an assuming
11 insurer has assumed the policy obligations of the ceding
12 insurer.

13 The bill also provides that the domiciliary liquidator of
14 an insolvent ceding insurer shall give written notice to the
15 assuming insurer of any claim against the ceding insurer and
16 that any assuming insurer may interpose, at its own expense,
17 any defenses to the claim. If the ceding insurer receives a
18 benefit as a result of the assuming insurer's defense, then
19 the ceding insurer is subject to a claim for a portion of the
20 expense incurred by the assuming insurer in presenting the
21 defense.

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