

House Study Bill 651

Bill Text

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1 1 Section 1. Section [507C.32](#), Code 1997, is amended to read
1 2 as follows:

1 3 507C.32 REINSURER'S LIABILITY.

1 4 1. Notwithstanding a provision in the reinsurance contract
1 5 or other agreement, the amount recoverable by the liquidator
1 6 from reinsurers shall not be reduced as a result of
1 7 delinquency proceedings. Payment made directly to an insured
1 8 or other creditor shall not diminish the reinsurer's
1 9 obligation to the insurer's estate except when

~~the reinsurance~~

1 10

~~contract provided for direct coverage of a named insured and~~

1 11

~~the payment was made in discharge of that obligation~~

~~either of~~

1 12 the following applies:

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

1 16 b. The assuming insurer, with the consent of the direct
1 17 insured, has assumed the policy obligations of the ceding
1 18 insurer as direct obligations of the assuming insurer to the
1 19 payees under the policies and in substitution for the
1 20 obligations of the ceding insurer to the payees.

1 21 2. The domiciliary liquidator of an insolvent ceding
1 22 insurer shall give written notice to the assuming insurer of
1 23 the pendency of a claim against the ceding insurer on the
1 24 contract reinsured within a reasonable time after the claim is
1 25 filed in the liquidation proceeding. During the pendency of
1 26 the claim, any assuming insurer may investigate the claim and
1 27 interpose, at its own expense, in the proceeding where the
1 28 claim is to be adjudicated, any defenses that the assuming
1 29 insurer deems available to the ceding insurer or its
1 30 liquidator. The expense may be filed as a claim against the
1 31 insolvent ceding insurer as part of the expense of
1 32 liquidation. The expense shall be allowed to the extent of
1 33 any proportionate share of the benefit of the defense accruing
1 34 to the ceding insurer solely as a result of the defense
1 35 undertaken by the assuming insurer. If two or more assuming
2 1 insurers are involved in the same claim and a majority in
2 2 interest elect to interpose any defense to the claim, the
2 3 expense shall be apportioned in accordance with the terms of
2 4 the reinsurance agreement as though the expense had been
2 5 incurred by the ceding insurer.

2 6

EXPLANATION

2 7 The bill provides that the reinsurer's obligation to the
2 8 insurer's estate is not reduced as a result of delinquency
2 9 proceedings except when the agreement provides for another
2 10 payee of the reinsurance to make payment or when an assuming
2 11 insurer has assumed the policy obligations of the ceding
2 12 insurer.

2 13 The bill also provides that the domiciliary liquidator of
2 14 an insolvent ceding insurer shall give written notice to the
2 15 assuming insurer of any claim against the ceding insurer and
2 16 that any assuming insurer may interpose, at its own expense,
2 17 any defenses to the claim. If the ceding insurer receives a
2 18 benefit as a result of the assuming insurer's defense, then
2 19 the ceding insurer is subject to a claim for a portion of the
2 20 expense incurred by the assuming insurer in presenting the
2 21 defense.
2 22 LSB 4229HC 77
2 23 mg/cf/24