



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2003 Wisconsin Act 44 [2003 Senate Bill 116]	Amount a Liquidator Can Recover From a Reinsurer
2003 Acts: www.legis.state.wi.us/2003/data/acts/	Act Memos: www.legis.state.wi.us/lc/act_memo/act_memo.htm

2003 Act 44 expands the situations in which a liquidator cannot recover from a reinsurer.

BACKGROUND INFORMATION

Reinsurance is an insurance company's insurance. Reinsurance allows an insurance company to spread its risk by paying premiums to other insurers. Since this relationship is between the reinsurer and the insurance company (the ceding insurer), the insured generally has no right to enforce the reinsurance agreement.

A "cut through" provision changes this relationship. Generally, a "cut through" provision provides that in the event of the ceding insurer's insolvency, the amount that would have been paid to the ceding insurer's estate will instead be paid directly to the insured specified in the cut through provision.

An assumption agreement also changes this relationship. Under an assumption agreement, the reinsurer assumes the policy obligations of the ceding insurer as its direct obligations.

Under current law, when an insurance company is liquidated, the liquidator is vested with all of the insurance company's property, contracts, and rights of action. Prior law did not provide for cut through provisions and would have required the reinsurer to pay benefits to the liquidator even if payments had been made to an insured under a cut through provision. Prior law provided for assumption agreements by stating, in s. 645.58, Stats., that the reinsurer's obligation to the insurance company's estate was not reduced by payments made directly to the insured except when the reinsurance contract provided for direct coverage of a named insured and the payment was made in discharge of that obligation.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents.

ACT 44

Wisconsin Act 44 permits cut through provisions and recognizes assumption agreements in the event of liquidation. Specifically, the Act provides for cut through provisions by stating that in a liquidation a reinsurer's obligation to the ceding insurer's estate will be reduced when: (1) the reinsurance contract or other agreement provides for another payee in the event of delinquency proceedings; (2) payment is made to that payee; and (3) the payment operates to extinguish the liability of the ceding insurer. With respect to assumption agreements, a reinsurer's obligation to the ceding insurer's estate will be reduced when: (1) the reinsurer has assumed as its direct obligation the policy obligations of the ceding insurer; (2) payment is made to the payee under the policy; and (3) the payment operates to extinguish the liability of the ceding insurer.

Effective Date: The Act takes effect on August 26, 2003. Act 44 applies to reinsurance contracts or other agreements entered into on or after August 26, 2003.

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