

2003 SENATE BILL 116

April 16, 2003 – Introduced by Senators SCHULTZ, COWLES, DECKER, HANSEN, BRESKE and ROESSLER, cosponsored by Representatives LADWIG, HAHN, AINSWORTH, WEBER, WIECKERT, HINES, PETROWSKI, HUBER, SCHOOFF, VRUWINK, TOWNSEND and VAN ROY. Referred to Committee on Agriculture, Financial Institutions and Insurance.

1 **AN ACT to renumber and amend** 645.58 (1); and **to create** 645.58 (1) (a) and
2 645.58 (1) (b) of the statutes; **relating to:** reduction in amount recoverable by
3 a liquidator from a reinsurer.

Analysis by the Legislative Reference Bureau

Current law provides that, regardless of any provision in a reinsurance contract, the amount recoverable by a liquidator from the reinsurer of an insurer (ceding insurer) subject to delinquency proceedings is not reduced as a result of the delinquency proceedings, and that no payment made directly to an insured or other creditor reduces the reinsurer's obligation to the ceding insurer's estate except when the reinsurance contract provides for direct coverage of a named insured and payment is made in discharge of that obligation.

This bill clarifies when the amount recoverable by a liquidator from a reinsurer of a ceding insurer is reduced. Those situations are: 1) when the reinsurance contract specifically provides for another payee in the event of delinquency proceedings, the reinsurer pays the other payee, and the payment extinguishes the liability of the ceding insurer to the extent of the payment made by the reinsurer; and 2) when the reinsurer has assumed policy obligations of the ceding insurer as direct obligations of the reinsurer, the reinsurer makes payment with respect to those

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obligations, and the assumption extinguishes the liability of the ceding insurer to the extent assumed.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 645.58 (1) of the statutes is renumbered 645.58 (1) (intro.) and
2 amended to read:

3 645.58 (1) LIABILITY. (intro.) The Except as provided in this subsection, the
4 amount recoverable by the liquidator from a reinsurer shall not be reduced as a
5 result of delinquency proceedings, regardless of any provision in the reinsurance
6 contract or other agreement. Payment made directly to an insured or other creditor
7 shall not diminish the reinsurer's obligation to the insurer's estate except when the
8 ~~reinsurance contract provided for direct coverage of an individual named insured~~
9 ~~and the payment was made in discharge of that obligation.~~ any of the following
10 applies:

11 **SECTION 2.** 645.58 (1) (a) of the statutes is created to read:

12 645.58 (1) (a) The reinsurance contract or other agreement specifically
13 provides for another payee of the reinsurance in the event of delinquency
14 proceedings, payment is made to the other payee, and the payment operates to
15 extinguish the liability of the ceding insurer to the extent of the payment made by
16 the reinsurer.

17 **SECTION 3.** 645.58 (1) (b) of the statutes is created to read:

18 645.58 (1) (b) The reinsurer has assumed policy obligations of the ceding
19 insurer as direct obligations of the reinsurer, payment is made to the payees under
20 the policies, and the assumption operates to extinguish the liability of the ceding
21 insurer to the extent assumed.

