

AN ACT

*Codification  
District of  
Columbia  
Code  
2001 Supp.*

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Insurers Rehabilitation and Liquidation Act of 1993 to clarify the conditions under which and the extent to which reinsurers are liable to an insured after that insured party's primary or ceding insurer has become insolvent; and to amend the Law on Credit for Reinsurance Act of 1993 to clarify the basis for reinsurance credits upon the insolvency of a domestic ceding insurer.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Reinsurance Credit and Recovery Act of 2000".

Sec. 2. Section 31 of the Insurers Rehabilitation and Liquidation Act of 1993 is amended to read as follows:

"The amount recoverable by the liquidator from reinsurers shall not be reduced as a result of the delinquency proceedings, regardless of any provision in the reinsurance contracts or other agreements. The reinsurance shall be payable under contracts reinsured by the assuming insurer on the basis of reported claims allowed by the Superior Court of the District of Columbia, without diminution because of the insolvency of the ceding insurer. The payments shall be made directly to the ceding insurer or to its domiciliary liquidator, except where:

"(1) The contracts or other written agreements specifically provide for another payee of the reinsurance in the event of the insolvency of the ceding insurer; or

"(2) The assuming insurer, with the consent of the direct insureds, has assumed the policy obligations of the ceding insurer as the direct obligation of the assuming insurer to the payees under such policies and in substitution for the obligations of the ceding insurer to the payees.".

Sec. 3. Section 2 of the Law on Credit for Reinsurance Act of 1993 is amended by adding a new subsection (b-1) to read as follows:

"(b-1)(1) No credit shall be allowed under this section, as an admitted asset or deduction from liability, to a domestic ceding insurer for reinsurance, unless the reinsurance agreements include a proper insolvency clause as set forth in paragraph (2) of this subsection.

"(2) A proper insolvency clause, in substance, provides that in the event of the insolvency of the ceding insurer, the reinsurance shall be payable under contracts reinsured by the assuming insurer on the basis of reported claims allowed by the Superior Court of the District of Columbia, without diminution because of the insolvency of the ceding insurer. The payments shall be made directly to the ceding insurer or to its domiciliary liquidator, except where:

"(A) The contracts or other written agreements specifically provide

another payee of the reinsurance in the event of the insolvency of the ceding insurer; or  
"(B) The assuming insurer, with the consent of the direct insureds, has assumed the policy obligations of the ceding insurer as direct obligations of the assuming insurer to the payees under such policies and in substitution for the obligations of the ceding insurer to such payees. The reinsurance contracts may provide that the domiciliary liquidator of an insolvent ceding insurer shall give written notice to the assuming insurer of the pendency of a claim against the ceding insurer on the contracts reinsured within a reasonable time after the claim is filed in the liquidation proceeding. During the pendency of the claim, an assuming insurer may investigate the claim and interpose, at its own expense, in the proceeding where the claim is to be adjudicated any defenses which it deems available to the ceding insurer or its liquidator. The expense may be filed as a claim against the insolvent ceding insurer to the extent of a proportionate share of the benefit which may accrue to the ceding insurer solely as a result of the defense undertaken by the assuming insurer. If 2 or more assuming insurers are involved in the same claim and a majority in interest elect to interpose a defense to the claim, the expense shall be apportioned in accordance with the terms of the reinsurance agreements as though the expense had been incurred by the ceding insurer."

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), a 30-day period of Congressional review as provided in

section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in the District of Columbia Register.

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia