SB 165

Department of Legislative Services

Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 165 (Senator Astle)
Finance Economic Matters

Insurance - Reinsurance - Ceding Insurers

This bill alters the requirements for allowing a ceding insurer credit for reinsurance. The bill requires the reinsurance contract to provide that, in the event the ceding insurer becomes insolvent, the reinsurance will be payable under a reinsurance contract on the basis of reported claims allowed by a court in a liquidation proceeding, without diminution because of the ceding insurer's insolvency. The bill authorizes a reinsurer to investigate a claim and interpose, in the liquidation proceeding, any defense that it determines is available to the insolvent ceding insurer or its receiver.

Fiscal Summary

State Effect: The bill would not directly affect the finances or operations of the Maryland Insurance Administration.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: Authorized payments made by a reinsurer must be made directly to the ceding insurer or its receiver unless: (1) the reinsurance contract provides for another payee in the event of insolvency; or (2) subject to any statutory or contracted requirement of the policyholder's consent, the reinsurer has assumed the policy obligations of the ceding insurer as direct obligations to the payees under the policies and in substitution for the ceding insurer's obligations to the payees.

If a life and health guaranty association has elected to succeed to the rights and obligations of an insolvent insurer under a reinsurance contract, the reinsurer's liability to pay covered claims continues under the reinsurance contract, subject to the payment of premiums.

If a reinsurer interposes a defense in liquidation proceeding, the reinsurer may file a claim against the insolvent ceding insurer for any expense incurred in interposing the defense.

Current Law: A ceding insurer may not be allowed credit for reinsurance unless: (1) the reinsurer is authorized to transact business in the State or is a solvent insurer approved or accepted by the Maryland Insurance Commissioner for the purpose of reinsurance; and (2) the reinsurance is payable on the basis of the liability of the ceding insurer under the contracts reinsured without diminution because of the ceding insurer's insolvency.

The Commissioner may not approve or accept reinsurance by a ceding domestic insurer if the Commissioner for good cause finds that the reinsurance would be contrary to the interests of the ceding insurer's policyholders or stockholders. On request by the Commissioner, a ceding insurer must inform the Commissioner in writing of the cancellation or any other material change of any of its reinsurance treaties or arrangements.

Additional Information

Prior Introductions: None.

Cross File: HB 114 (Delegate Fulton) – Economic Matters.

Information Source(s): Maryland Insurance Administration, Department of Legislative Services

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