

CHAPTER 144
HB 1403 - FINAL VERSION

2016 SESSION

16-2441
01/09

HOUSE BILL **1403**

AN ACT relative to reinsurance.

SPONSORS: Rep. Hunt, Ches. 11; Rep. Butler, Carr. 7; Rep. Flanders, Belk. 3; Sen. Bradley,
Dist 3

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill provides that a credit shall not be allowed to any ceding insurer for reinsurance unless the contract specifies how the reinsurance will be paid in the event of the insolvency of the ceding insurer.

This bill is a request of the insurance department.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struck through.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Sixteen

AN ACT relative to reinsurance.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 144:1 New Paragraph; Insurance; Credit Allowed a Domestic Ceding Insurer. Amend RSA
2 405:47 by inserting after paragraph VI the following new paragraph:

3 VII.(a) No credit under this section shall be allowed, as an admitted asset or deduction from
4 liability, to any ceding insurer for reinsurance, unless the reinsurance contract provides, in
5 substance, that in the event of the insolvency of the ceding insurer, the reinsurance shall be payable
6 by the assuming insurer on the basis of the claims allowed against the ceding insurer in the
7 insolvency proceedings, under contract or contracts reinsured, without diminution because of the
8 insolvency of the ceding insurer directly to the ceding insurer or to its domiciliary liquidator or
9 receiver except:

10 (1) Where the contract specifically provides another payee of such reinsurance in
11 the event of the insolvency of the ceding insurer; or

12 (2) Where the assuming insurer with the consent of the direct insured or insured
13 has assumed such policy obligations of the ceding insurer as direct obligations of the assuming
14 insurer to the payees under such policies and in substitution for the obligations of the ceding
15 insurer to such payees.

16 (b) A reinsurance contract may provide that the domiciliary liquidator or receiver of any
17 insolvent ceding insurer shall, within a specified or reasonable time after the claim is filed in court
18 or in the receivership, give written notice to the assuming insurer of all or part of any claims
19 against the ceding insurer on the policy or bond reinsured. During the pendency of the claim, any
20 assuming insurer may investigate the claim and, unless forbidden to do so by the reinsurance
21 agreement, may intervene in the proceeding in which the claim is pending and interpose any
22 defenses it considers available which have not been raised by the ceding insurer, its liquidator, or
23 receiver. The expenses incurred by the assuming insurer in this type of action are payable up to
24 the amount of the expenses or the amount of the benefit produced, whichever is less, as expenses of
25 the receivership. If 2 or more assuming insurers have potential liability because of the same claim,
26 the expenses shall be apportioned among them in proportion to the benefit received.

27 144:2 Effective Date. This act shall take effect 60 days after its passage.

28 Approved: May 27, 2016

29 Effective Date: July 26, 2016