

(II) PAYMENT FOR A COVERED REINSURED CLAIM UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE MADE BY THE REINSURER ONLY AT THE DIRECTION OF THE LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION OR ITS DESIGNATED SUCCESSOR.

(III) PAYMENT FOR A COVERED REINSURED CLAIM MADE BY THE REINSURER AT THE DIRECTION OF THE LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION OR ITS DESIGNATED SUCCESSOR DISCHARGES THE REINSURER'S LIABILITY TO ANY OTHER PERSON FOR PAYMENT OF THE COVERED REINSURED CLAIM.

[(b) 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 policyholders or stockholders of the ceding domestic insurer.]

(B) (1) A REINSURANCE AGREEMENT MAY PROVIDE THAT THE DOMICILIARY RECEIVER OF AN INSOLVENT CEDING INSURER SHALL GIVE WRITTEN NOTICE TO THE REINSURER OF THE PENDENCY OF A CLAIM MADE AGAINST THE INSOLVENT CEDING INSURER UNDER THE CONTRACT REINSURED WITHIN A REASONABLE TIME AFTER THE CLAIM IS FILED IN THE LIQUIDATION PROCEEDING.

(2) DURING THE PENDENCY OF THE CLAIM, THE REINSURER, AT ITS OWN EXPENSE, MAY INVESTIGATE THE CLAIM AND INTERPOSE, IN THE LIQUIDATION PROCEEDING, ANY DEFENSE THAT IT DETERMINES IS AVAILABLE TO THE INSOLVENT CEDING INSURER OR ITS RECEIVER.

(3) (1) THE REINSURER MAY FILE A CLAIM AGAINST THE INSOLVENT CEDING INSURER FOR ANY EXPENSE INCURRED BY THE REINSURER UNDER PARAGRAPH (2) OF THIS SUBSECTION.

(II) THE CLAIM MAY NOT EXCEED AN AMOUNT EQUAL TO THE PROPORTIONATE SHARE OF THE BENEFIT ACCRUING TO THE INSOLVENT CEDING INSURER SOLELY AS A RESULT OF THE DEFENSE UNDERTAKEN BY THE REINSURER.

(III) IF TWO OR MORE REINSURERS ARE INVOLVED IN A 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 AGREEMENT AS THOUGH THE EXPENSE HAD BEEN INCURRED BY THE INSOLVENT CEDING INSURER.

(c) On request of the Commissioner, a ceding insurer shall inform the Commissioner promptly in writing of the cancellation or any other material change of any of its reinsurance treaties or arrangements.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2003.

Approved April 22, 2003.