



STATE OF WEST VIRGINIA
Offices of the Insurance Commissioner
Company Analysis and Examinations Division

**Reinsurance Intermediary Manager
Contract Review**

W. Va. Code §33-38-7(a) provides that transactions between a reinsurance intermediary manager and the reinsurer it represents in that capacity may only be entered into pursuant to a written contract, specifying the responsibilities of each party, which shall be approved by the reinsurer's board of directors. At least thirty days before such reinsurer assumes or cedes business through such producer, a true copy of the contract shall be filed with the Commissioner for approval.

This contract review form is to be completed and submitted with each contract between the reinsurance intermediary manager and a reinsurer. The contract will be compared with the review form and the reinsurance intermediary manager contacted if there are any questions or further clarification is needed.

Contract between _____ and

Dated: _____

Responsibilities

Contract specifies responsibilities of each party. **Contract cite:** _____

Termination

Reinsurer may terminate contract for cause upon written notice to reinsurance intermediary manager.

Contract cite: _____

Reinsurer may immediately suspend the authority of the reinsurance intermediary manager to assume or cede business during the pendency of any dispute regarding the cause for termination.

Contract cite: _____

Accounting

Reinsurance intermediary manager shall render accounts to the reinsurer accurately detailing all transactions and remit all funds due under the contract on at least a monthly basis. **Contract cite:** _____

Fiduciary Accounts

All funds collected on behalf of reinsurer shall be held in fiduciary capacity in bank which is a qualified United States financial institution. **Contract cite:** _____

Reinsurance intermediary manager may not retain more than three months estimated claims payments and allocated loss adjustment expenses. **Contract cite:** _____

Reinsurance intermediary manager will maintain a separate account for each reinsurer that it represents.

Contract cite: _____

Records

For at least 10 years after expiration of each contract of reinsurance transacted by a reinsurance intermediary manager, a complete record for each transaction shall be kept showing:

Type of contract, limits, underwriting restrictions, classes of risks and territory.

Contract cite: _____

Period of coverage, including effective and expiration dates, cancellation provisions and notice required for cancellation, and status of disposition of outstanding reserves on covered risks.

Contract cite: _____

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- Reporting and settlement requirements of balances.
Contract cite: _____
- Rate used to compute the reinsurance premium.
Contract cite: _____
- Names and addresses of reinsurers.
Contract cite: _____
- Rates of all reinsurance commissions, including the commissions on any retrocessions handled by the reinsurance intermediary manager.
Contract cite: _____
- Related correspondence and memoranda.
Contract cite: _____
- Proof of placement.
Contract cite: _____
- Details regarding retrocessions handled by the reinsurance intermediary manager, including the identity of retrocessionaires and percentage of each contract assumed or ceded.
Contract cite: _____
- Financial records, including, but not limited to, premium and loss accounts.
Contract cite: _____
- When the reinsurance intermediary manager places a reinsurance contract on behalf of a ceding insurer:
- i) Directly from any assuming reinsurer, written evidence that the assuming reinsurer has agreed to assume the risk; or
 - ii) If placed through a representative of the assuming reinsurer other than an employee, written evidence that the reinsurer has delegated binding authority to the representative.
- Contract cite:** _____

Access

- Reinsurer must have access to and may copy and audit all accounts and records maintained by the reinsurance intermediary manager related to its business in a form usable by the reinsurer.
Contract cite: _____

Non-assignable

- The reinsurance intermediary manager may not assign the contract in whole or in part.
Contract cite: _____

Compliance with standards

- The reinsurance intermediary manager shall comply with the written underwriting and rating standards established by the insurer for the acceptance, rejection or cession of all risks.
Contract cite: _____

Commissions; Fees

- The contract must set forth the rates, terms and purposes of commissions; charges and other fees that the reinsurance intermediary manager may levy against the reinsurer. **Contract cite:** _____

Settlement authority

If the contract permits the reinsurance intermediary manager to settle claims on behalf of the reinsurer:

- All claims must be reported to the reinsurer in a timely manner. **Contract cite:** _____
- A copy of each claim file must be sent to the reinsurer at its request or as soon as it becomes known that the claim: **Contract cite:** _____
- Has the potential to exceed the lesser of an amount determined by the Commissioner or the limit set by the reinsurer. **Contract cite:** _____
- Involves a coverage dispute. **Contract cite:** _____
- May exceed the reinsurance intermediary manager's claims settlement authority. **Contract cite:** _____
- Is open for more than 6 months; **Contract cite:** _____ or
- Is closed by payment of the lesser of an amount set by a court of competent jurisdiction or an amount agreed by the reinsurer.
Contract cite: _____

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- All claim files must be the joint property of the reinsurer and reinsurance intermediary manager. However, upon an order of liquidation of the reinsurer, the files shall become the sole property of the reinsurer or its estate. The reinsurance intermediary manager must have reasonable access to and may copy the files on a timely basis.

Contract cite: _____

- Reinsurer may terminate settlement authority for cause upon written notice to the reinsurance intermediary manager or upon the termination of the contract. The reinsurer may suspend the settlement authority while termination dispute is pending. **Contract cite:** _____

Interim profits (If applicable)

- Interim profits may not be paid until 1 year after earned for property business, 5 years for casualty. Interim may not be paid until verified by actuary. **Contract cite:** _____

Financial statements

- Reinsurance intermediary manager must provide reinsurer a copy of its CPA audit report annually.

Contract cite: _____

On-site review

- Reinsurer must conduct an on-site review of underwriting and claims processing operations of reinsurance intermediary manager at least semiannually. **Contract cite:** _____

Disclosure

- The reinsurance intermediary manager must disclose to the reinsurer any relationship the reinsurer has with any insurer to which business will be ceded or assumed. **Contract cite:** _____

Scope of Authority

- Acts of reinsurance intermediary are deemed to be acts of reinsurer. **Contract cite:** _____

Prohibitions

The reinsurance intermediary manager may not:

- Retrocede business on behalf of reinsurer except facultative agreements containing: Reinsurance underwriting guidelines; a list of reinsurers with which automatic agreements are in effect; commission schedules; and coverages and amounts of percentages that may be reinsured. **Contract cite:** _____

- Commit the reinsurer to participate in reinsurance syndicates. **Contract cite:** _____

- Appoint any producer without verifying that the producer is licensed in West Virginia for the kind of reinsurance transacted. **Contract cite:** _____

- Pay or commit the reinsurer to pay a claim, net of retrocessions, that exceeds the lesser of an amount specified by reinsurer or one percent of reinsurer's policyholder surplus as of December 31st of the next preceding calendar year. **Contract cite:** _____

- Collect any payment from retrocessionaire or commit reinsurer to any claim settlement with a retrocessionaire, without prior approval of reinsurer, and if prior approval is given, a report must be promptly forwarded to reinsurer.

Contract cite: _____

- Jointly employ an employee of the reinsurer unless reinsurance intermediary manager is under common control with the reinsurer subject to W.Va. Code §§ 33-27-1 et seq. **Contract cite:** _____

- Appoint a sub-reinsurance intermediary-manager. **Contract cite:** _____

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