



STATE OF WEST VIRGINIA
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Financial Conditions Division

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Reinsurance Intermediary Broker
Reinsurance Intermediary Manager
Licensing Instructions

W. Va. Code §33-38-3 provides that:

No person, firm, association or corporation may act as a *reinsurance intermediary-broker* in this state if the reinsurance intermediary-broker maintains an office either directly or as a member or employee of a firm or association, or an officer, director or employee of a corporation in this state, unless such reinsurance intermediary-broker is a licensed insurance producer or reinsurance intermediary in this state; or in another state, unless such reinsurance intermediary-broker is a licensed insurance producer or reinsurance intermediary in this state or another state having a law substantially similar to this article or such reinsurance intermediary-broker is licensed in this state as a nonresident reinsurance intermediary.

No person, firm, association or corporation may act as a *reinsurance intermediary-manager* for a reinsurer domiciled in this state, unless such reinsurance intermediary-manager is a licensed insurance producer or reinsurance intermediary in this state; in this state, if the reinsurance intermediary-manager maintains an office either directly or as a member or employee of a firm or association, or an officer, director or employee of a corporation in this state, unless such reinsurance intermediary-manager is a licensed insurance producer or reinsurance intermediary in this state; or, in another state for a non-domestic insurer, unless such reinsurance intermediary-manager is a licensed insurance producer in this state or another state having a law substantially similar to this article or such person is licensed in this state as a nonresident reinsurance intermediary.

A *Reinsurance intermediary-broker* is defined as:

Any person, other than an officer or employee of the ceding insurer, firm, association or corporation who solicits, negotiates or places reinsurance cessions or retrocessions on behalf of a ceding insurer without the authority or power to bind reinsurance on behalf of a ceding insurer without the authority or power to bind reinsurance on behalf of such insurer.

A *Reinsurance intermediary-manager* is defined as:

Any person, firm, association or corporation who has authority to bind or manages all or part of the assumed reinsurance business of a reinsurer including the management of a separate division, department or underwriting office and acts as an agent for such reinsurer whether known as a reinsurance intermediary-manager, manager or other similar term. Notwithstanding the above, the following persons are not considered a reinsurance intermediary-manager, with respect to such reinsurer, for the purposes of this article:

- (1) An employee of the reinsurer;
- (2) A United States manager of the United States branch of an alien reinsurer;
- (3) An underwriting manager who, pursuant to contract, manages all the reinsurance operations of the reinsurer, is under common control with the reinsurer, subject to article twenty-seven of this chapter, and whose compensation is not based on the volume of premiums written.
- (4) The manager of a group, association, pool or organization of insurers which engage in joint underwriting or joint reinsurance and who are subject to examination by the official charged with regulation of insurance in the state in which the manager's principal business office is located.

West Virginia Code Section §33-38-3(c) also gives the Insurance Commissioner the authority to require a bond and an errors and omissions policy of a reinsurance intermediary manager. While reserving the right hereafter on an individual basis to consider and establish the amount of any bond and the need for an errors and omissions policy, the Insurance Commissioner will presently accept as sufficient under this Code section the bonding and errors and omissions coverage required by a reinsurer of the reinsurance intermediary manager. A copy of the reinsurer's bond and errors and omissions requirements and proof that the reinsurance

intermediary manager has obtained and maintained the required bond and errors and omissions coverage must be filed with the application.

License Filing Requirements

The following must be submitted to and approved by the Insurance Commissioner in order to obtain a reinsurance intermediary license in the State of West Virginia:

Reinsurance Intermediary Broker and Reinsurance Intermediary Manager:

- 1) Resident applicants must submit a completed Form RI-1.
- 2) Non-resident applicants must provide evidence of being currently licensed as a resident reinsurance intermediary or insurance producer and in good standing in his or her home state and submit either a copy of the application for licensure submitted to his or her home state or a completed Form RI-1.
- 3) A \$500.00 non-refundable application fee.
- 4) If applicable an attachment listing: (a) For a firm or an association, the name of each member of the firm or association and each employee of the firm or association who will act as a reinsurance intermediary under the license; and (b) for a corporation the name of each officer, director or employee of the corporation who will act as a reinsurance intermediary under the license.

In addition to above Reinsurance Intermediary Managers must also submit:

- 5) A copy of each reinsurer's bond and errors and omissions requirements.
- 6) Evidence that the reinsurance intermediary manager has obtained the bond and errors and omissions coverages required by each reinsurer.
- 7) A copy of all contracts with each reinsurer represented.
- 8) A completed Reinsurance Intermediary Manager Contract Review Form RI-3 for each contract submitted.

Reinsurance Intermediary Broker Statutory Contract Provisions

W. Va. Code §33-38-4 provides that transactions between a reinsurance intermediary-broker and the insurer it represents in that capacity may only be entered into pursuant to a written authorization, specifying the responsibilities of each party.

Each written authorization shall, at a minimum, provide that:

- 1) **Termination.** The insurer may terminate the reinsurance intermediary-broker's authority at any time.
- 2) **Accounting.** The reinsurance intermediary-broker shall render accounts to the insurer accurately detailing all material transactions, including information necessary to support all commissions, charges and other fees received by, or owing, to the reinsurance intermediary-broker, and remit all funds due to the insurer within thirty days of receipt.
- 3) **Fiduciary Accounts.** All funds collected for the insurer's account shall be held by the reinsurance intermediary-broker in a fiduciary capacity in a bank which is a qualified United States financial institution. (See W.Va. Code §33-38-2(k).)
- 4) **Records.** W. Va. Code §33-38-5 provides that for at least 10 years after expiration of each contract of reinsurance transacted by a reinsurance intermediary broker, a complete record for each transaction shall be kept showing:
 - a) Type of contract, limits, underwriting restrictions, classes of risks and territory.
 - b) Period of coverage, including effective and expiration dates, cancellation provisions and notice required for cancellation.
 - c) Reporting and settlement requirements of balances.

- d) Rate used to compute the reinsurance premium.
 - e) Names and addresses of assuming reinsurers.
 - f) Rates of all reinsurance commissions, including the commissions on any retrocessions handled by the reinsurance intermediary broker.
 - g) Related correspondence and memoranda.
 - h) Proof of placement.
 - i) Details regarding retrocessions handled by the reinsurance intermediary broker, including the identity of retrocessionaires and percentage of each contract assumed or ceded.
 - j) Financial records, including, but not limited to, premium and loss accounts.
 - k) When the reinsurance intermediary broker procures a reinsurance contract on behalf of a licensed 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.
 - l) The insurer shall have access and the right to copy and audit all accounts and records maintained by the reinsurance intermediary broker related to its business in a form usable to the insurer.
- 5) **Compliance with standards.** The reinsurance intermediary-broker shall comply with the written standards established by the insurer for the cession or retrocession of all risks.
- 6) **Disclosure.** The reinsurance intermediary-broker shall disclose to the insurer any relationship with any reinsurer to which business will be ceded or retroceded.

Reinsurance Intermediary Manager Statutory Contract Provisions

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 approved contract shall be filed with the commissioner for approval.

Every contract shall, at a minimum, provide that:

- 1) **Termination.** Reinsurer may terminate contract for cause upon written notice to the reinsurance intermediary manager. Reinsurer may immediately suspend the reinsurance intermediary manager's authority to assume or cede business during pendency of any dispute regarding the cause for termination.
- 2) **Accounting.** Reinsurance intermediary-manager shall render accounts to reinsurer accurately detailing all material transactions, including information necessary to support all commissions, charges and other fees received by or owed to the reinsurance intermediary-manager, and remit all funds due to the reinsurer on not less than a monthly basis.
- 3) **Fiduciary Accounts.** All funds collected on behalf of reinsurer are to be held by the reinsurance intermediary-manager in a fiduciary capacity in a bank that is a qualified United States financial institution. (See W.Va. Code §33-38-2(k).) Reinsurance intermediary manager may retain no more than 3 months' estimated claims payments and allocated loss adjustment expenses. Reinsurance intermediary manager shall maintain a separate account for each reinsurer that it represents.
- 4) **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:
 - a) Type of contract, limits, underwriting restrictions, classes of risks and territory.

- b) 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.
 - c) Reporting and settlement requirements of balances.
 - d) Rate used to compute the reinsurance premium.
 - e) Names and addresses of reinsurers.
 - f) Rates of all reinsurance commissions, including the commissions on any retrocessions handled by the reinsurance intermediary manager.
 - g) Related correspondence and memoranda.
 - h) Proof of placement.
 - i) Details regarding retrocessions handled by the reinsurance intermediary manager, including the identity of retrocessionaires and percentage of each contract assumed or ceded.
 - j) Financial records, including, but not limited to, premium and loss accounts.
 - k) 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.
- 5) **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.
- 6) **Nonassignable.** The reinsurance intermediary manager may not assign the contract in whole or in part.
- 7) **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.
- 8) **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.
- 9) **Settlement authority.** If the contract permits the reinsurance intermediary manager to settle claims on behalf of the reinsurer:
- a) All claims must be reported to the reinsurer in a timely manner.
 - b) 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:
 - i) Has the potential to exceed the lesser of an amount determined by the Commissioner or the limit set by the reinsurer.
 - ii) Involves a coverage dispute.
 - iii) May exceed the reinsurance intermediary manager's claims settlement authority.
 - iv) Is open for more than six months; or
 - v) Is closed by payment of the lesser of an amount set by the Commissioner or an amount set by the reinsurer.
 - c) 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 shall have reasonable access to and may copy the files on a timely basis.

- d) 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 a termination dispute is pending.
- 10) **Interim profits. (If applicable)** Interim profits may not be paid until one year after the end of each underwriting period for property business, and five years after the end of each underwriting period for casualty business, or a later period set by the Commissioner for specified lines of insurance, and not until the adequacy of reserves on remaining claims has been verified pursuant to W. Va. Code §33-38-9(c).
- 11) **Financial statements.** The reinsurance intermediary manager shall annually provide the reinsurer with a statement of its financial condition prepared by an independent certified public accountant.
- 12) **On-site review.** Reinsurer must conduct an on-site review of underwriting and claims processing operations of reinsurance intermediary manager at least semiannually.
- 13) **Disclosure.** The reinsurance intermediary manager must disclose to the reinsurer any relationship the reinsurance intermediary manager has with any insurer to which business will be ceded or assumed.
- 14) **Scope of Authority.** Within the scope of its actual or apparent authority, the acts of the reinsurance intermediary manager are deemed to be acts of the reinsurer on whose behalf it is acting.
- 15) **Prohibitions.** The reinsurance intermediary manager may not:
- a) Cede retrocessions on behalf of the reinsurer, except that the reinsurance intermediary manager may cede facultative retrocessions pursuant to obligatory facultative agreements if the contract with the reinsurer contains reinsurance underwriting guidelines for the retrocessions. The guidelines shall include a list of reinsurers with which the automatic agreements are in effect, and for each reinsurer, the coverages and amounts or percentages that may be reinsurer, and commission schedules.
 - b) Commit the reinsurer to participate in reinsurance syndicates.
 - c) Appoint any producer without verifying that the producer is licensed in West Virginia for the kind of reinsurance transacted.
 - d) Without prior approval of the reinsurer, pay or commit the reinsurer to pay a claim, net of retrocessions, that exceeds the lesser of an amount specified by the reinsurer or one percent of the reinsurer's policyholder surplus as of the thirty-first day of December, next preceding.
 - e) Collect any payment from a retrocessionaire or commit the reinsurer to any claim settlement with a retrocessionaire, without prior approval of the reinsurer, and if prior approval is given, a report must be promptly forwarded to the reinsurer.
 - f) Jointly employ an employee of the reinsurer unless the reinsurance intermediary manager is under common control with the reinsurer subject to W.Va. Code §§33-27-1 et seq.
 - g) Appoint a sub-reinsurance intermediary-manager.

Renewal of License

Between the first day of May and the first day of June, every licensed reinsurance intermediary shall submit a completed license renewal Form RI-2 and applicable renewal fee. Each reinsurance intermediary license issued expires on the 30th day of June.

Questions

Access the West Virginia Code at <http://www.legis.state.wv.us/WVCODE/Code.cfm>

Contact Financial Conditions Division at OICFinancialConditions@wv.gov or at (304) 558-2100