

THE INSURANCE CODE OF 1956 (EXCERPT)
Act 218 of 1956

500.1161 Transactions between reinsurance intermediary-manager and reinsurer; contract.

Sec. 1161.

Transactions between a reinsurance intermediary-manager and the reinsurer it represents in such capacity shall 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 30 days before the reinsurer assumes or cedes business through such person, a true copy of the approved contract shall be filed with the commissioner for approval. The contract shall, at a minimum, provide for all of the following:

(a) That the reinsurer may terminate the contract for cause upon written notice to the reinsurance intermediary-manager. The 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.

(b) That the reinsurance intermediary-manager will render accounts to the reinsurer accurately detailing all material transactions, including information necessary to support all commissions, charges, and other fees received by, or owing to the reinsurance intermediary-manager, and remit all funds due under the contract to the reinsurer on not less than a monthly basis.

(c) That all funds collected for the reinsurer's account will be held by the reinsurance intermediary-manager in a fiduciary capacity in a bank that is a qualified United States financial institution. The reinsurance intermediary-manager may retain no more than 3 months' estimated claims payments and allocated loss adjustment expenses. The reinsurance intermediary-manager shall maintain a separate bank account for each reinsurer that it represents.

(d) That the reinsurance intermediary-manager will comply with the record-keeping requirements of section 1157. In addition to all the records required by section 1157, the reinsurance intermediary-manager will keep a complete record of all outstanding reserves on covered risks.

(e) That the reinsurer will have access and the right to copy all accounts and records maintained by the reinsurance intermediary-manager related to its business in a form usable by the reinsurer.

(f) That the contract cannot be assigned in whole or in part by the reinsurance intermediary-manager.

(g) That the reinsurance intermediary-manager will comply with the written underwriting and rating standards established by the insurer for the acceptance, rejection, or cession of all risks.

(h) That the rates, terms, and purposes of commissions, charges, and other fees that the reinsurance intermediary-manager may levy against the reinsurer are set forth.

(i) That if the contract permits the reinsurance intermediary-manager to settle claims on behalf of the reinsurer, then all of the following are required:

(i) That all claims will be reported to the reinsurer in a timely manner.

(ii) That a copy of the claim file will be sent to the reinsurer at its request or as soon as it becomes known that the claim meets any of the following:

(A) Has the potential to exceed the lesser of an amount determined by the commissioner or the limit set by the reinsurer.

(B) Involves a coverage dispute.

(C) May exceed the reinsurance intermediary-manager's claims settlement authority.

(D) Is open for more than 6 months.

(E) Is closed by payment of the lesser of an amount set by the commissioner or an amount set by the reinsurer.

(iii) That all claim files will be the joint property of the reinsurer and the 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 the right to copy the files on a timely basis.

(iv) That any settlement authority granted to the reinsurance intermediary-manager may be terminated for cause upon the reinsurer's written notice to the reinsurance intermediary-manager or upon the termination of the contract. The reinsurer may suspend the settlement authority during the pendency of any dispute regarding the cause of termination.

(j) That if the contract provides for a sharing of interim profits by the reinsurance intermediary-manager, that such interim profits will not be paid until 1 year after the end of each underwriting period for policies providing property coverages and 5 years after the end of each underwriting period for policies providing casualty coverages, and in any event, not until the adequacy of reserves on remaining claims has been verified pursuant to section 1165.

(k) That the reinsurance intermediary-manager will provide the reinsurer annually with a statement of its financial condition prepared by an independent certified accountant.

(l) That the reinsurer shall periodically, but at least semiannually, conduct an on-site review of the underwriting and claims processing operations of the reinsurance intermediary-manager.

(m) That the reinsurance intermediary-manager will disclose to the reinsurer any relationship it has with any insurer prior to ceding or assuming any business with the insurer pursuant to this contract.

(n) That within the scope of its actual or apparent authority the acts of the reinsurance intermediary-manager shall be considered to be the acts of the reinsurer on whose behalf it is acting.

History: Add. 1994, Act 226, Imd. Eff. June 27, 1994

Popular Name: Act 218