

REINSURANCE INTERMEDIARY MODEL ACT

- F. "Reinsurance intermediary-broker" (RB) means a 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 acting as a RM on behalf of the insurer.
- G. "Reinsurance intermediary-manager" (RM) means a person, firm, association or corporation, whether known as a RM, manager or other similar term, 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 the reinsurer except the following:
- (1) An employee of the reinsurer;
 - (2) A U.S. manager of the U. S. branch of an alien reinsurer;
 - (3) An underwriting manager that, pursuant to contract, manages all or part of the reinsurance operations of the reinsurer, is under common control with the reinsurer, subject to the Holding Company Act, and that is not compensated 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 but only if the group association, pool or organization of insurers (as distinguished from its members) is subject to examination by the [Insurance Commissioner] of the state in which the manager's principal business office is located.
- H. "Reinsurer" means a person, firm, association or corporation duly licensed in this state pursuant to the applicable provisions of the insurance law as an insurer with the authority to assume reinsurance.
- I. "To be in violation" means that the reinsurance intermediary, insurer or reinsurer for whom the reinsurance intermediary was acting failed to substantially comply with the provisions of this Act.
- J.

Section 3. Licensure

- A. No person, firm, association or corporation shall act as a RB in this state if the RB 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:
- (1) In this state, unless the RB is a licensed producer or reinsurance intermediary in this state; or
 - (2) In another state, unless the RB is a licensed producer or reinsurance intermediary in this state or another state having a law substantially similar to this law.
- B. No person, firm, association or corporation shall act as a RM:
- (1) For a reinsurer domiciled in this state, unless the RM is a licensed producer or reinsurance intermediary in this state;
 - (2) In this state, if the RM 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 the RM is a licensed producer or reinsurance intermediary in this state.
- C. The commissioner may require a resident RM subject to Subsection B to:
- (1) File a bond in an amount from an insurer acceptable to the commissioner for the protection of the reinsurer; and

Drafting Note: It is contemplated that one bond per reinsurer represented would be required.

- (2) Maintain an errors and omissions policy in an amount acceptable to the commissioner.
- D. (1) The commissioner may issue a reinsurance intermediary license to any person, firm, association or corporation that has complied with the requirements of this Act. A license issued to a firm or association will authorize all the members of the firm or association and any designated employees to act as reinsurance intermediaries under the license, and all such persons shall be named in the application and any supplements thereto. A license issued to a corporation shall authorize all of the officers, and any designated employees and directors thereof to act as reinsurance intermediaries on behalf of the corporation, and all such persons shall be named in the application and any supplements thereto.

Section 5. Books and Records—Reinsurance Intermediary Brokers

- A. For at least ten (10) years after expiration of each contract of reinsurance transacted by the RB, the RB will keep a complete record for each transaction showing:
- (1) The type of contract, limits, underwriting restrictions, classes or risks and territory;
 - (2) Period of coverage, including effective and expiration dates, cancellation provisions and notice required of cancellation;
 - (3) Reporting and settlement requirements of balances;
 - (4) Rate used to compute the reinsurance premium;
 - (5) Names and addresses of assuming reinsurers;
 - (6) Rates of all reinsurance commissions, including the commissions on any retrocessions handled by the RB;
 - (7) Related correspondence and memoranda;
 - (8) Proof of placement;
 - (9) Details regarding retrocessions handled by the RB including the identity of retrocessionaires and percentage of each contract assumed or ceded;
 - (10) Financial records, including but not limited to, premium and loss accounts; and
 - (11) When the RB procures a reinsurance contract on behalf of a licensed ceding insurer:
 - (a) Directly from any assuming reinsurer, written evidence that the assuming reinsurer has agreed to assume the risk; or
 - (b) 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.

Drafting Note: States may wish to modify this section to reflect their own requirements. (s)1.71.7 (m)-l a.7 sat mbBDC 0.001.2 (-)-16.6 ch Tc 0)-0.712 (e0.712 (ub0.712 (e)9.cf6 (a)-6 3v0 Tc 0)-)-18.62 (n,

- C. The insurer shall annually obtain a copy of statements of the financial condition of each RB with which it transacts business.

Section 7. Required Contract Provisions—Reinsurance Intermediary—Managers

Transactions between a RM and the reinsurer it represents in such capacity shall only be entered into pursuant

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- (10) Financial records, including but not limited to, premium and loss accounts; and
- (11) When the RM places a reinsurance contract on behalf of a ceding insurer:
 - (a) Directly from any assuming reinsurer, written evidence that the assuming reinsurer has agreed to assume the risk; or
 - (b) If placed through a representative of the assuming reinsurer, other than an employee, written evidence that such reinsurer has delegated binding authority to the representative.

Drafting Note: States may wish to bifurcate this subsection, shortening the required retention period for contracts limited to first-party property coverages and lengthening the period for certain third-party liability coverages (e.g., medical malpractice).

- E. The reinsurer will have access and the right to copy all accounts and records maintained by the RM related to its business in a form usable by the reinsurer.
- F. The contract cannot be assigned in whole or in part by the RM.
- G. The RM will comply with the written underwriting and rating standards established by the insurer for the acceptance, rejection or cession of all risks.
- H. Rates, terms and purposes of commissions, charges and other fees which the RM may levy against the reinsurer are set forth.
- I. If the contract permits the RM to settle claims on behalf of the reinsurer:
 - (1) All claims will be reported to the reinsurer in a timely manner;

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- (4) Any settlement authority granted to the RM may be terminated for cause upon the reinsurer's written notice to the RM or upon the termination of the contract. The reinsurer may suspend the settlement authority during the pendency of the 6 (f)-3put

Section 12. Penalties and Liabilities

- A. If the commissioner determines that the reinsurance intermediary or any other person has not materially complied with this Act, or any regulation or order promulgated thereunder, after notice and opportunity to be heard, the commissioner may order:
- (1) For each separate violation, a penalty in an amount not exceeding \$5,000;
 - (2) Revocation or suspension of the reinsurance intermediary's license; and
 - (3) If it was found that because of such material non-compliance that the insurer or reinsurer has suffered any loss or damage, the commissioner may maintain a civil action

