

Part 4 Reinsurance

31A-37a-401 Purchase of reinsurance.

Subject to the prior approval of the commissioner, a special purpose financial captive insurance company may purchase reinsurance to cede the risks assumed under a reinsurance contract.

Enacted by Chapter 302, 2008 General Session

31A-37a-402 Permitted reinsurance.

- (1)
 - (a) A special purpose financial captive insurance company may reinsure only the risks of a ceding insurer, pursuant to a reinsurance contract.
 - (b) A special purpose financial captive insurance company may not issue a contract of insurance or a contract for assumption of risk or indemnification of loss other than a reinsurance contract described in Subsection (1)(a).
- (2) Unless otherwise approved in advance by the commissioner, a special purpose financial captive insurance company may not assume or retain exposure to insurance or reinsurance losses for its own account that are not funded by:
 - (a) proceeds from a special purpose financial captive insurance company insurance securitization;
 - (b) a letter of credit;
 - (c) an asset described in Subsection 31A-37a-102(1)(c);
 - (d) a premium or another amount payable by the ceding insurer to the special purpose financial captive insurance company pursuant to the reinsurance contract; or
 - (e) a return on investment of an item described in Subsections (2)(a) through (d).
- (3)
 - (a) A reinsurance contract shall contain a provision reasonably required or approved by the commissioner.
 - (b) A requirement described in Subsection (3)(a) shall take into account the laws applicable to the ceding insurer regarding the ceding insurer taking credit for the reinsurance provided under the reinsurance contract.
- (4) Subject to the prior approval of the commissioner, a special purpose financial captive insurance company may cede risks assumed through a reinsurance contract to one or more reinsurers through the purchase of reinsurance.
- (5)
 - (a) This Subsection (5) applies to a contract or commercial activity that:
 - (i) relates to or is incidental to a reinsurance contract; and
 - (ii) is necessary to fulfill the purposes of:
 - (A) a reinsurance contract;
 - (B) insurance securitization; and
 - (C) this chapter.
 - (b) A special purpose financial captive insurance company may engage in a contract or commercial activity described in Subsection (5)(a) if the contract or commercial activity is:
 - (i) in the special purpose financial captive insurance company's plan of operation; or
 - (ii) approved in advance by the commissioner.
 - (c) A contract or commercial activity described in Subsection (5)(a) includes:

- (i) entering into a reinsurance contract;
- (ii) issuing a special purpose financial captive insurance company security;
- (iii) complying with a term of a contract or security described in Subsection (5)(c)(i) or (ii);
- (iv) entering into:
 - (A) a trust;
 - (B) a guaranteed investment contract;
 - (C) a swap;
 - (D) a derivative transaction;
 - (E) a tax transaction;
 - (F) an administration transaction;
 - (G) a reimbursement transaction; or
 - (H) a fiscal agent transaction;
- (v) complying with a trust indenture, reinsurance, or retrocession; and
- (vi) another agreement necessary or incidental to effect an insurance securitization in compliance with:
 - (A) the special purpose financial captive insurance company's plan of operation; and
 - (B) this chapter.
- (6) Unless otherwise approved in advance by the commissioner, a reinsurance contract may not contain a provision for payment by the special purpose financial captive insurance company in discharge of its obligations under the reinsurance contract to a person other than the ceding insurer or any receiver of the ceding insurer.
- (7) A special purpose financial captive insurance company shall notify the commissioner immediately of an action by a ceding insurer or another person to foreclose on or otherwise take possession of collateral provided by the special purpose financial captive insurance company to secure an obligation of the special purpose financial captive insurance company.

Amended by Chapter 349, 2009 General Session