

**31A-20-107 Reinsurance.**

- (1)
  - (a) An authorized insurer writing a nonassessable policy may assume as a reinsurer a risk it may write directly.
  - (b) Subject to Chapter 5, Domestic Stock and Mutual Insurance Corporations, Chapter 6a, Service Contracts, Chapter 6b, Guaranteed Asset Protection Waiver Act, Chapter 7, Nonprofit Health Service Insurance Corporations, Chapter 8, Health Maintenance Organizations and Limited Health Plans, Chapter 8a, Health Discount Program Consumer Protection Act, Chapter 9, Insurance Fraternal, Chapter 10, Annuities, Chapter 11, Motor Clubs, Chapter 12, State Risk Management Fund, Chapter 13, Employee Welfare Funds and Plans, Chapter 14, Foreign Insurers, and Chapter 17, Determination of Financial Condition, and to any limitation imposed on a foreign insurer by the law of its domicile, the commissioner may also authorize an insurer to assume, as a reinsurer, one or more designated classes of risks it is not authorized to write directly.
- (2)
  - (a) Subject to Section 31A-5-508, an authorized insurer may cede or retrocede to:
    - (i) an insurer authorized to assume it under Subsection (1) a liability it has undertaken on a risk lawfully written under its certificate of authority; and
    - (ii) an authorized agency of the federal government or of this state.
  - (b) An authorized insurer may cede or retrocede reinsurance to an unauthorized insurer subject to:
    - (i) Sections 31A-17-404 and 31A-17-404.1;
    - (ii) a rule made by the commissioner under a section listed in Subsection (2)(b)(i); and
    - (iii) Subsection (3).
- (3) A person may not knowingly cede reinsurance or permit or assist it to be ceded to a reinsurer not in sound financial condition. If a reinsurer satisfies one or more of the security factors under Section 31A-17-404.1, there is a rebuttable presumption that the reinsurer is in sound financial condition.
- (4)
  - (a) An authorized reinsurer who knowingly assumes from an unauthorized insurer, a risk that may lawfully be written only by an authorized insurer, shall immediately report the facts of the transaction to the commissioner.
  - (b)
    - (i) Subject to Subsection (4)(b)(ii), an assuming reinsurer described in Subsection (4)(a):
      - (A) is liable for all taxes and penalties applicable under Sections 31A-3-301, 31A-3-302, and 31A-3-303; and
      - (B) may take credit for the payment of a tax or penalty lapse under Subsection (4)(b)(i) in its settlement of accounts with the unauthorized ceding insurer.
    - (ii) This Subsection (4)(b) does not apply if the assuming reinsurer's agreement with the ceding insurer takes the taxes described in Subsection (4)(b)(i) into account.
- (5)
  - (a) Except as provided under Subsection (5)(b), an authorized reinsurer proposing to withdraw from writing a class of its business in Utah, except by nonrenewal of an existing contract at its expiration, shall give the commissioner 60 days written notice of its intention. The authorized reinsurer may not withdraw until after those 60 days lapse.
  - (b) This Subsection (5) does not apply if the withdrawing reinsurer writes an insignificant market share of that class of business in Utah. The commissioner shall define "insignificant market share" by rule.

Amended by Chapter 257, 2008 General Session