

## Part 12 Reinsurance

### **31A-22-1201 Assumption agreement.**

- (1) Subject to Subsection (2), a credit for reinsurance ceded under Section 31A-17-404 or 31A-17-404.1 is not allowed unless, in addition to meeting the requirements of Section 31A-17-404 or 31A-17-404.1, the reinsurance agreement provides in substance that if the ceding insurer is insolvent, the reinsurance is payable by the assuming insurer:
  - (a) on the basis of the liability of the ceding insurer under the contract or contracts reinsured;
  - (b) without diminution because of the insolvency of the ceding insurer; and
  - (c) directly to the ceding insurer or to its domiciliary liquidator or receiver.
- (2) Subsection (1) applies except if:
  - (a) a contract specifically provides another payee of the insurance in the event of the insolvency of the ceding insurer; or
  - (b) the assuming insurer, with the consent of the one or more direct insureds, assumes the policy obligations of the ceding insurer:
    - (i) as direct obligations of the assuming insurer to the payees under the policies; and
    - (ii) in substitution for the obligations of the ceding insurer to the payees.

Amended by Chapter 138, 2016 General Session

### **31A-22-1202 Other reinsurance contracts.**

- (1) If there is no assumption agreement under Subsection 31A-22-1201(2), the reinsurer's sole obligation is to the ceding insurer.
- (2) No guaranty fund, security fund, or any other person, except the estate of the ceding insurer, has a claim against a reinsurer.
- (3) Subject to contractual rights of offset, if a ceding insurer is put into receivership, the reinsurer shall pay any amount due under the contract in full, without reduction because of the receivership:
  - (a) to the domiciliary receiver if there is one; or
  - (b) if there is not domiciliary receiver, to a Utah receiver.

Amended by Chapter 257, 2008 General Session

### **31A-22-1203 Right of reinsurer to defend claim.**

A reinsurance contract may provide that the receiver of a ceding insurer shall, within a specified or reasonable time after the claim is filed in court or in the receivership, give written notice to an assuming reinsurer of all or part of the claim against the ceding insurer. During the pendency of the claim, any assuming reinsurer may investigate the claim and unless forbidden to do so by the reinsurance agreement, may intervene in the proceeding in which the claim is pending and interpose any defenses it considers available which have not been raised by the ceding insurer or its receiver. The expenses incurred by the assuming reinsurer in this type of action are payable up to the amount of the expenses or the amount of the benefit produced, whichever is less, as expenses of the receivership. If two or more assuming reinsurers have potential liability because of the same claim, the expenses shall be apportioned among them in proportion to the benefit received.

Enacted by Chapter 242, 1985 General Session

**31A-22-1204 Approval required for bulk insurance.**

Reinsurance credit is not allowed to a domestic insurer for reinsurance ceded when such reinsurance constitutes all or substantially all of the insurance in force of the domestic insurer, unless the agreement purporting to transfer the reinsurance is in writing and:

- (1) approved by the commissioner prior to execution of the agreement; or
- (2) provides that the agreement is subject to the approval of the commissioner.

Enacted by Chapter 258, 1992 General Session