

**§747. Required contract provisions; reinsurance intermediary-managers**

Transactions between a reinsurance intermediary-manager and the reinsurer it represents in such capacity may be entered into only pursuant to a written contract, specifying the responsibilities of each party, that must be approved by the reinsurer's board of directors. At least 30 days before the reinsurer assumes or cedes business through the reinsurance intermediary-manager, a true copy of the approved contract must be filed with the superintendent for approval. The contract must, at a minimum, contain the following terms and conditions. [PL 1991, c. 828, §20 (NEW).]

**1. Termination.** The reinsurer may terminate the contract for cause upon 5 days' 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.

[PL 1991, c. 828, §20 (NEW).]

**2. Accounting.** The reinsurance intermediary-manager shall render accounts to the reinsurer accurately detailing all material transactions, including information necessary to support all commissions, charges and other fees received by or owed, to the reinsurance intermediary-manager and remit all funds due under the contract to the reinsurer on not less than a monthly basis.

[PL 1991, c. 828, §20 (NEW).]

**3. Bank as fiduciary.** All funds collected for the reinsurer's account must be held in trust 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.

[PL 1991, c. 828, §20 (NEW).]

**4. Compliance with law.** The reinsurance intermediary-manager shall comply with section 748.

[PL 1991, c. 828, §20 (NEW).]

**5. Access.** The reinsurer must have access to and may copy all accounts and records maintained by the reinsurance intermediary-manager related to its business in a form usable by the reinsurer.

[PL 1991, c. 828, §20 (NEW).]

**6. Nonassignable.** The contract may not be assigned in whole or in part by the reinsurance intermediary-manager.

[PL 1991, c. 828, §20 (NEW).]

**7. Compliance with standards.** The reinsurance intermediary-manager shall comply with the written underwriting and rating standards established by the insurer for the acceptance, rejection or cession of all risks.

[PL 1991, c. 828, §20 (NEW).]

**8. Commissions; fees.** The contract must set forth the rates, terms and purposes of commissions, charges and other fees that the reinsurance intermediary-manager may levy against the reinsurer.

[PL 1991, c. 828, §20 (NEW).]

**9. Settlement.** If the contract permits the reinsurance intermediary-manager to settle claims on behalf of the reinsurer:

A. All claims must be reported to the reinsurer in a timely manner; [PL 1991, c. 828, §20 (NEW).]

B. A copy of each claim file must be sent to the reinsurer at its request or as soon as it becomes known that the claim:

- (1) Has the potential to exceed the lesser of an amount determined by the superintendent or the limit set by the reinsurer;
- (2) Involves a coverage dispute;
- (3) May exceed the reinsurance intermediary-manager's claims settlement authority;
- (4) Is open for more than 6 months; or
- (5) Is closed by payment of the lesser of an amount set by a court of competent jurisdiction or an amount agreed by the reinsurer; [PL 1991, c. 828, §20 (NEW).]

C. All claim files must be the joint property of the reinsurer and the reinsurance intermediary-manager; except that, upon an order of liquidation of the reinsurer, the files become the sole property of the reinsurer or its estate. The reinsurance intermediary-manager must have reasonable access to and may copy the files on a timely basis; and [PL 1991, c. 828, §20 (NEW).]

D. Any settlement authority granted to the reinsurance intermediary-manager may be terminated for cause upon the reinsurer's notice to the reinsurance intermediary-manager or upon the termination of the contract. The reinsurer may suspend the settlement authority during the pendency of the dispute regarding the cause of termination. [PL 1991, c. 828, §20 (NEW).]

[PL 1991, c. 828, §20 (NEW).]

**10. Interim profits.** If the contract provides for a sharing of interim profits by the reinsurance intermediary-manager, interim profits may not be paid until one year after the end of each underwriting period for property business and 5 years after the end of each underwriting period for casualty business or other period set by the superintendent for other specified kinds of insurance and not until the adequacy of reserves on remaining claims has been verified pursuant to section 750, subsection 3. [PL 1991, c. 828, §20 (NEW).]

**11. Financial statements.** The reinsurance intermediary-manager shall annually provide the reinsurer with a statement of current origin of its financial condition prepared by an independent certified accountant. These statements must be certified reports or review statements prepared by a certified public accountant. [PL 1991, c. 828, §20 (NEW).]

**12. On-site review.** The reinsurer shall periodically and no less than semiannually conduct an on-site review of the underwriting and claims processing operations of the reinsurance intermediary-manager. [PL 1991, c. 828, §20 (NEW).]

**13. Disclosure.** The reinsurance intermediary-manager shall disclose to the reinsurer any relationship the reinsurer has with any insurer prior to ceding or assuming any business with the insurer pursuant to this contract. [PL 1991, c. 828, §20 (NEW).]

**14. Scope of authority.** Within the scope of its actual or apparent authority the acts of the reinsurance intermediary-manager are deemed to be the acts of the reinsurer on whose behalf it is acting. [PL 1991, c. 828, §20 (NEW).]

#### SECTION HISTORY

PL 1991, c. 828, §20 (NEW).

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