

CHAPTER 45-04-11
REINSURANCE TRANSACTIONS BY LICENSED LIFE INSURERS

Section

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45-04-11-01. Financial statement prohibitions.

1. No licensed life insurer shall, for reinsurance ceded, reduce any liability or establish any asset in any financial statement filed with this department if, by the terms of the reinsurance agreement, in substance or effect, any of the following conditions exist:
 - a. The primary effect of the reinsurance agreement is to transfer deficiency reserves or excess interest reserves to the books of the reinsurer for a "risk charge" and the agreement does not provide for significant participation by the reinsurer in one or more of the following risks: mortality, morbidity, investment, or surrender benefit;
 - b. The reserve credit taken by the ceding insurer is in excess of the actuarial reserve necessary, under the North Dakota insurance law or rules, including actuarial interpretations or standards adopted by the department, to support the policy obligations transferred under the reinsurance agreement;
 - c. The reserve credit taken by the ceding insurer is greater than the underlying reserve of the ceding company supporting the policy obligations transferred under the reinsurance agreement;
 - d. The ceding insurer is required to reimburse the reinsurer for negative experience under the reinsurance agreement, except that neither offsetting experience refunds against prior years' losses nor payment by the ceding insurer of an amount equal to prior years' losses upon voluntary termination of inforce reinsurance by that ceding insurer shall be considered such a reimbursement to the insurer for negative experience;
 - e. The ceding insurer can be deprived of surplus at the reinsurer's option or automatically upon the occurrence of some event, such as the insolvency of the ceding insurer, except that termination of the reinsurance agreement by the reinsurer for nonpayment of reinsurance premiums shall not be considered to be such a deprivation of surplus;
 - f. The ceding insurer must, at specific points in time scheduled in the agreement, terminate or automatically recapture all or part of the reinsurance ceded;
 - g. No cash payment is due from the reinsurer, throughout the lifetime of the reinsurance agreement, with all settlements prior to the termination date of the agreement made only in a "reinsurance account", and no funds in such account are available for the payment of claims; or
 - h. The reinsurance agreement involves the possible payment by the ceding insurer to the reinsurer of amounts other than from income reasonably expected from the reinsured policies.
2. Notwithstanding subsection 1, a licensed life insurer may, with the prior approval of the commissioner, take such reserve credit as the commissioner may deem consistent with the insurance law or rules, including actuarial interpretations or standards adopted by the department.

History: Effective October 1, 1989; amended effective January 1, 1992; February 28, 1992.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-05-04, 26.1-05-19, 26.1-05-32

45-04-11-02. Financial statement requirements.

1. No reinsurance agreement or amendment to any reinsurance agreement may be used to reduce any liability or to establish any asset in any financial statement filed with this department, unless the agreement, amendment, or a letter of intent has been duly executed by both parties no later than the "as of date" of the financial statement.
2. In the case of a letter of intent, a reinsurance agreement or an amendment to a reinsurance agreement must be executed within a reasonable period of time, not exceeding ninety days from the execution date of the letter of intent, in order for credit to be granted for the reinsurance ceded.

History: Effective October 1, 1989.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-05-04, 26.1-05-19, 26.1-05-32

45-04-11-03. Financial statement exceptions.

Notwithstanding section 45-04-11-01, licensed life insurers may continue to reduce liabilities or establish assets in financial statements filed with this department for reinsurance ceded under types of reinsurance agreements described in section 45-04-11-01, provided:

1. The agreements were executed and in force prior to October 1, 1989;
2. No new business is ceded under the agreements after October 1, 1989;
3. The reduction of the liability or the asset established for the reinsurance ceded is reduced to zero by December 31, 1992, or such later date approved by the commissioner as a result of an application made by the ceding insurer prior to December 31, 1989;
4. The reduction of the liability or the establishment of the asset is otherwise permissible under all other applicable provisions of the insurance law or rules, including actuarial interpretations or standards adopted by the department; and
5. The insurance department is notified, within sixty days following October 1, 1989, of the existence of such reinsurance agreements and all corresponding credits taken in the ceding insurer's 1988 annual statement.

History: Effective October 1, 1989.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-05-04, 26.1-05-32, 26.1-05-19