

## Article - Insurance

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§8–105.

(a) In this section, “independent casualty actuary” means a casualty actuary who:

(1) is a member of the American Academy of Actuaries; and

(2) is not affiliated with, an employee of, a principal of, the direct or indirect owner of, or in any way in the control of a controlled insurer or a controlling insurance producer.

(b) If a controlling insurance producer, when the insurance business is placed, is acting in a transaction on behalf of an insured for compensation, commission, or other valuable consideration, the controlling insurance producer may not directly or indirectly place insurance business with its controlled insurer unless the requirements of this section are met.

(c) There shall be a written contract between the controlling insurance producer and controlled insurer that has been approved by the board of directors of the controlled insurer.

(d) (1) If insurance business is placed through a controlling insurance producer, the controlling insurance producer shall deliver written notice to the prospective insured before the effective date of the policy, disclosing the relationship between the controlling insurance producer and the controlled insurer.

(2) The disclosure shall be signed by the prospective insured and retained in the underwriting file until the filing of the examination report for the period during which the policy is in effect.

(3) If insurance business is placed through a sub-insurance producer that is not a controlling insurance producer, the controlling insurance producer shall retain in the controlling insurance producer’s records a signed statement from the sub-insurance producer that:

(i) the sub-insurance producer is aware of the relationship between the controlling insurance producer and the controlled insurer;

(ii) the sub-insurance producer has delivered to the prospective insured written notice disclosing that relationship; and

(iii) the disclosure has been signed by the prospective insured and will be retained by the sub-insurance producer for 3 years.

(e) At least quarterly, the controlling insurance producer shall pay to the

controlled insurer all money that the controlling insurance producer collected for the account of the controlled insurer, net of commissions, cancellations, and other adjustments.

(f) (1) In addition to any other required loss reserve certification, the controlled insurer on or before April 1 of each year shall file with the Commissioner an opinion of:

(i) an independent casualty actuary; or  
(ii) another independent loss reserve specialist acceptable to the Commissioner.

(2) The opinion shall:

(i) report loss ratios for each line of insurance business written; and  
(ii) attest that loss reserves are adequate for losses incurred and outstanding as of year end on insurance business placed by the controlling insurance producer, including losses incurred but not reported.

(g) The controlled insurer shall report annually to the Commissioner:

(1) the amount of commission it paid to the controlling insurance producer;  
(2) the percentage that amount represents of the net premiums written;  
and  
(3) comparable amounts and percentages paid to noncontrolling insurance producers for placement of the same kinds of insurance.

(h) (1) The controlled insurer shall have an audit committee of the board of directors composed of independent directors.

(2) Before approval of the annual financial statement, the audit committee shall meet to review the adequacy of the controlled insurer's loss reserves with:

(i) management;  
(ii) the controlled insurer's independent certified public accountants;  
and

(iii) another independent loss reserve specialist acceptable to the Commissioner or an independent casualty actuary.

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