

Article - Insurance

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§8–208.

(a) A managing general agent may not place business with an insurer or maintain loss reserves from which claims against an insurer may be paid unless a written contract is in force between the managing general agent and insurer.

(b) At a minimum, the contract shall:

(1) state the responsibilities of each party and specify the division of responsibilities for shared functions;

(2) provide that the insurer may:

(i) terminate the contract for cause on written notice to the managing general agent; and

(ii) suspend the managing general agent's underwriting authority during a dispute about the termination;

(3) require the managing general agent to:

(i) give accounts to the insurer detailing all transactions; and

(ii) remit to the insurer at least monthly all money due under the contract;

(4) require that:

(i) all money collected for the account of the insurer be held by the managing general agent in a fiduciary capacity in a federally insured financial institution; and

(ii) all payments for the insurer be made from this account;

(5) prohibit the managing general agent from keeping more than 3 months' estimated claims payments and allocated loss adjustment expenses;

(6) require the managing general agent to:

(i) keep separate records of business written for the insurer; and

(ii) allow the insurer and the Commissioner to have access to those records;

(7) require the managing general agent to keep all books, records, and accounts in a form acceptable to the Commissioner;

(8) prohibit the managing general agent from wholly or partly assigning the contract;

(9) state appropriate underwriting guidelines, including:

(i) maximum annual volume of premiums;

(ii) types or classifications of risks that may be written;

(iii) maximum limits of liability;

(iv) applicable exclusions;

(v) territorial limitations;

(vi) provisions for cancellation of policies; and

(vii) maximum periods of policies;

(10) subject to all applicable laws about policy cancellation and nonrenewal, grant the insurer the right to cancel or nonrenew any policy underwritten by the managing general agent;

(11) require the managing general agent, when conducting business or entering into contracts on behalf of or for the benefit of the insurer, to comply with all applicable insurance laws and regulations; and

(12) address the timely transmission of data for any electronic claims files.

(c) (1) This subsection applies if:

(i) the contract provides for a sharing of profits by the managing general agent; and

(ii) the managing general agent has the authority to determine the amount of interim profits by establishing loss reserves, controlling claims payments, or any other method.

(2) Interim profits may not be paid to a managing general agent subject to this subsection:

(i) until:

1. at least 1 year after the profits are earned, for property insurance business; or

2. at least 5 years after the profits are earned, for casualty insurance business; and

(ii) until the profits have been verified by the insurer under § 8-210 of this subtitle.

(d) If the contract allows the managing general agent to settle claims for the insurer:

(1) the managing general agent shall report all claims to the insurer in a timely manner;

(2) the managing general agent shall give to the insurer a copy of any claim file that:

(i) is requested by the insurer;

(ii) involves a coverage dispute;

(iii) potentially exceeds the managing general agent's settlement authority;

(iv) remains open for more than 6 months after the date the managing general agent receives the claim; or

(v) is settled in an amount of more than \$500;

(3) the insurer may:

(i) terminate for cause any settlement authority granted to the managing general agent if the insurer gives the managing general agent 30 days' notice of the termination; and

(ii) suspend the settlement authority during a dispute about the cause for termination; and

(4) all claims files are property of the insurer except, if the Commissioner obtains an order of liquidation, rehabilitation, reorganization, or conservation against an insurer, the claims files become the property of the person appointed liquidator, rehabilitator, conservator, or receiver.

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