



ADMINISTRATIVE RULES OF MONTANA



6.6.3867 REINSURANCE AGREEMENT PROVISIONS RELATING TO 1217 TRUST AGREEMENTS - PERMISSIVE

- (1) Reinsurance agreements entered into in conjunction with trust agreements pursuant to 33-2-1217, MCA, may include the following:
 - (a) a requirement that the assuming insurer enter into a trust agreement and establish a trust account for the benefit of the ceding insurer, and specifying what the agreement is to cover;
 - (b) a requirement that the assuming insurer, prior to depositing assets with the trustee, execute assignments or endorsements in blank, or to transfer legal title to the trustee of all shares, obligations, or any other assets requiring assignments, in order that the ceding insurer, or the trustee upon the direction of the ceding insurer, may, whenever necessary, negotiate these assets without consent or signature from the assuming insurer or any other entity;
 - (c) a requirement that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent; and
 - (d) a requirement that the assuming insurer and the ceding insurer agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement, and must be utilized and applied by the ceding insurer or its successors in interest by operation of law, including without limitation any liquidator, rehabilitator, receiver, or conservator of such company, without diminution because of insolvency on the part of the ceding insurer or the assuming insurer, only for the following purposes:
 - (i) to reimburse the ceding insurer for the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement because of cancellations of such policies;
 - (ii) to reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement;
 - (iii) to pay or reimburse the ceding insurer any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer; and
 - (iv) to pay the assuming insurer amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer.
- (2) The reinsurance agreement may provide for amounts due, reasonable interest, and awards by an arbitration panel or court of competent jurisdiction.

- (3) The reinsurance agreement may also contain provisions that give the assuming insurer the right to seek approval from the ceding insurer to withdraw from the trust account all or any part of the trust assets and transfer those assets to the assuming insurer, provided:
- (a) the assuming insurer shall, at the time of withdrawal, replace the withdrawn assets with other qualified assets having a market value equal to the market value of the assets withdrawn, so as to maintain at all times the deposit in the required amount; or
 - (b) after withdrawal and transfer, the market value of the trust account is no less than 102% of the required amount. The ceding insurer shall not unreasonably or arbitrarily withhold its approval.

Authorizing statute(s): 33-1-313, 33-2-1517, MCA

Implementing statute(s): 33-2-1217, MCA

History: NEW, 2016 MAR p. 2186, Eff. 11/26/16.