

40-5204. Same; prior approval by commissioner required; duties of licensed foreign insurer. (a) Prior approval by the commissioner is required for any transaction where an insurer domiciled in this state assumes or transfers obligations or risks, or both, on contracts of insurance under an assumption reinsurance agreement. No insurer licensed in this state shall transfer obligations and/or risks on contracts of insurance issued to or owned by residents of this state to any insurer that is not licensed in this state. An insurer domiciled in this state shall not assume obligations or risks, or both, on contracts of insurance issued to or owned by policyholders residing in any other state unless it is licensed in the other state, or the insurance regulatory official of that state has approved the assumption.

(b) Any licensed foreign insurer that enters into an assumption reinsurance agreement which transfers the obligations or risks, or both, on contracts of insurance issued to or owned by residents of this state, shall file or cause to be filed with the commissioner of insurance of this state the assumption certificate, a copy of the notice of transfer and an affidavit that the transaction is subject to substantially similar requirements in the state of domicile of both the transferring and assuming insurer. If no such requirements exist in the domicile of either the transferring or assuming insurers, then the requirements of this act shall apply.

(c) Any licensed foreign insurer that enters into an assumption reinsurance agreement which transfers the obligations or risks, or both, on contracts of insurance issued to or owned by residents of this state, shall obtain prior approval of the commissioner of insurance of this state and be subject to all other requirements of this act with respect to residents of this state, unless the transferring and assuming insurers are subject to assumption reinsurance requirements adopted by statute or regulation in the jurisdiction of their domicile which are substantially similar to those contained herein.

(d) The following factors, along with such other factors as the commissioner deems appropriate under the circumstances, shall be considered by the commissioner in reviewing a request for approval:

(1) The financial condition of the transferring and assuming insurers and the effect the transaction will have on the financial condition of each company;

(2) the competence, experience and integrity of those persons who control the operation of the assuming insurer;

(3) the plans or proposals the assuming party has with respect to the administration of the policies subject to the proposed transfer;

(4) whether the transfer is fair and reasonable to the policyholders of both companies; and

(5) whether the notice of transfer to be provided by the insurer is fair, adequate and not misleading.

(e) This section shall take effect on and after July 1, 2004.

History: L. 2004, ch. 128, § 9; May 20.