

§ 58-9-11. Broker and insurer transactions.

(a) Transactions between a broker and the insurer it represents as a broker shall only be entered into pursuant to a written authorization, specifying the responsibilities of each party. The authorization shall include provisions to the effect that:

- (1) The insurer may terminate the broker's authority at any time.
- (2) The broker will render accounts to the insurer that accurately detail all material transactions, including information necessary to support all commissions, charges, and other fees received by or owing to the broker and will remit all funds due to the insurer within 30 days after receipt by the broker.
- (3) All funds collected for the insurer's account will be held by the broker in a fiduciary capacity in a qualified United States financial institution.
- (4) The broker will comply with this Article.
- (5) The broker will comply with the written standards established by the insurer for the cession or retrocession of all risks.
- (6) The broker will disclose to the insurer any relationship with any reinsurer to which business will be ceded or retroceded.
- (7) The broker will annually provide the insurer with an audited statement of the broker's financial condition, which statement will be prepared by an independent certified public accountant.
- (8) The insurer will have access and the right to copy and audit all accounts and records maintained by the broker related to its business, in a form usable by the insurer.
- (9) For at least 10 years after the expiration of each contract of reinsurance transacted by the broker, the broker will keep a complete record for each transaction showing:
 - a. The type of contract, limits, underwriting restrictions, classes or risks, and territory;
 - b. Period of coverage, including effective and expiration dates, cancellation provisions, and notice required of cancellation;
 - c. Reporting and settlement requirements of balances;
 - d. Rate or rates used to compute the reinsurance premium;
 - e. Names and addresses of assuming reinsurers;
 - f. Rates of all reinsurance commissions, including the commissions on any retrocession handled by the broker;
 - g. Related correspondence and memoranda;
 - h. Proof of placement;
 - i. Details regarding retrocessions handled by the broker, including the identity of retrocessionaires and percentage of each contract assumed or ceded;
 - j. Financial records, including premium and loss accounts; and
 - k. When the broker procures a reinsurance contract on behalf of a licensed ceding insurer:
 1. Directly from any assuming reinsurer, written evidence that the assuming reinsurer has agreed to assume the risk; or
 2. If placed through a representative of the assuming reinsurer, other than an employee, written evidence that the reinsurer has delegated binding authority to the representative.

(b) An insurer shall not engage the services of any person to act as a broker on its behalf unless the person is licensed under G.S. 58-9-6 or exempted under this Article. An insurer shall not employ an individual who is employed by a broker with which it transacts business, unless the broker is under common control with the insurer under Article 19 of this Chapter. (1993, c. 452, s. 21; 2001-223, s. 10.2.)