

§ 38.2-136. Reinsurance

A. Except as otherwise provided in this title, any insurer licensed to transact the business of insurance in this Commonwealth may, by policy, treaty or other agreement, cede to or accept from any insurer reinsurance upon the whole or any part of any risk, with or without contingent liability or participation, and, if a mutual insurer, with or without membership therein.

B. No insurer licensed in this Commonwealth shall cede or assume policy obligations on risks located in this Commonwealth whereby the assuming insurer assumes the policy obligations of the ceding insurer as direct obligations of the assuming insurer to the payees under the policies and in substitution for the obligations of the ceding insurer to the payees, unless: (i) the policyholder has consented to the assumption and (ii) the assuming insurer is licensed in this Commonwealth to write the class or classes of insurance applicable to the policy obligations assumed.

C. Notwithstanding the provisions of subsection B, the transfer of risk under any reinsurance agreement may be effected by entry of an order by the Commission approving the transaction whenever (i) the Commission finds a licensed insurer to be impaired or in hazardous financial condition, (ii) a delinquency proceeding has been instituted against the licensed insurer for the purpose of conserving, rehabilitating, or liquidating the insurer, or (iii) the Commission finds, after giving the insurer notice and an opportunity to be heard, that the transfer of the contracts is in the best interests of the policyholders. In granting any such approval, the Commission shall ensure that policyholders do not lose any rights or claims afforded under their original policies pursuant to Chapter 16 (§ 38.2-1600 et seq.) or 17 (§ 38.2-1700 et seq.) of this title. Prior to granting an approval under clause (iii), the Commission shall consider whether there is a reasonable expectation that the ceding insurer may not be able to meet its obligations to all policyholders; whether the ceding insurer's continued operation in this Commonwealth may become hazardous to policyholders, creditors and the public in this Commonwealth; or whether the ceding insurer may otherwise be unable to comply with the provisions of this title.

Code 1950, §§ 38-160, 38-519; 1952, c. 317, § 38.1-26; 1986, c. 562; 1993, c. 158.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.