



State of North Dakota
Office of the Commissioner of Insurance

J. O. Wigen, Commissioner

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BULLETIN 83-5

TO : ALL COMPANIES ADMITTED TO DO BUSINESS
IN THE STATE OF NORTH DAKOTA

FROM: J. O. WIGEN, COMMISSIONER OF INSURANCE

DATE: APRIL 14, 1983

Since the promulgation of Bulletin 83-1 dated January 19, 1983, the North Dakota legislature has passed section 26.1-02-20, N.D.C.C., as an emergency measure which became effective on April 11, 1983.

That section reads as follows:

26.1-02-20. Reinsurance permitted--Limitations. Except as otherwise provided by this section and section 26.1-02-22, any insurance company organized or admitted to transact business in this state, including a mutual company, may reinsure any part or all of any risk taken by it in any insurance company or insurer licensed in any state or any insurance company or insurer not so licensed provided it was approved or accepted by the commissioner, if that company or insurer conforms to the same standards of solvency which would be required if, at the time the reinsurance is effected, it was licensed in this state. A county mutual insurance company also may reinsure with any other county mutual insurance company. No reinsurance, however, may be effected with any company disapproved therefor by written order of the commissioner filed in the commissioner's office. A domestic insurance company organized to engage in the business of life, accident, or health insurance may not reinsure its risks or any part thereof without complying with chapter 26.1-07.

It is the position of this department that Section 26.1-02-20 permits all companies doing business in this state to reinsure such business in the insurers admitted in North Dakota or at least one other state. The new section now permits a company doing business in this state to reinsure that business in a company or insurer which is not so licensed if the commissioner has approved or accepted such reinsurer. The section still provides the commissioner with the authority to disapprove a specific reinsurer by written order.

As a result of the legislative change, the commissioner hereby rescinds the order dated and filed January 12, 1983, which order disapproved all companies or insurers not licensed in a state or the District of Columbia, as reinsurers for North Dakota business. The department intends to promulgate a rule setting out the criteria for a reinsurer not licensed in a state being approved or accepted. However, since the legislation is effective immediately and impacts existing reinsurance, it is the position of this department that all reinsurers presently assuming reinsurance from companies doing business in this state shall be deemed to be approved or accepted as to that business and in compliance with the laws of this state until the expiration date of the reinsurance agreement, after which time the following provisions shall apply.

- 1) In the case of reinsurance ceded by a foreign insurer, the department intends to rely on the state of domicile of that insurer; and if the laws, regulations or rules of that domiciliary state permit such insurer to cede reinsurance to a particular reinsurer, that reinsurer will be acceptable to this department with respect to any transactions with such foreign insurer.
- 2) A domestic insurer may cede reinsurance to a reinsurer licensed in this state. A domestic insurer may cede reinsurance to a reinsurer licensed in any other state if that reinsurer conforms to the same standards of solvency which would be required if, at the time the reinsurance is effected, it was licensed in this state.
- 3) A domestic insurer may cede reinsurance to a reinsurer not licensed in any state if the reinsurer appears on the most recent "Non-Admitted Insurers Quarterly Listing" published by the National Association of Insurance Commissioners.

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If such reinsurer of a domestic insurer is not so listed, it must seek the approval of the commissioner by filing an application and financial information showing to the satisfaction of the commissioner that it conforms to the same standards of solvency which would be required if, at the time the reinsurance is effected, it was licensed in this state.

It is the intention of the department to promulgate an administrative rule as soon as practicable to govern acceptance and approval of such reinsurers.

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