

## **CHAPTER 26.1-10.1**

### **ASSET AND AGREEMENT REPORTS**

#### **26.1-10.1-01. Report.**

1. Every insurer domiciled in this state shall file a report with the commissioner disclosing material acquisitions and dispositions of assets or material nonrenewals, cancellations, or revisions of ceded reinsurance agreements or material new ceded reinsurance agreements unless the acquisitions and dispositions of assets or material nonrenewals, cancellations, or revisions of ceded reinsurance agreements or material new ceded reinsurance agreements have been submitted to the commissioner for review, approval, or information purposes pursuant to other provisions of the insurance code, laws, rules, or other requirements.
2. The report required in subsection 1 is due within fifteen days after the end of the calendar month in which any of the foregoing transactions occur.
3. One complete copy of the report, including any exhibits or other attachments, must be filed with:
  - a. The insurance department of the insurer's state of domicile; and
  - b. The national association of insurance commissioners.
4. All reports obtained by or disclosed to the commissioner under this chapter must be given confidential treatment and are not subject to subpoena and must not be made public by the commissioner, the national association of insurance commissioners, or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it pertains unless the commissioner, after giving the insurer who would be affected notice and an opportunity to be heard, determines that the interest of policyholders, shareholders, or the public will be served by publication, in which event the commissioner may publish all or any part in the manner the commissioner deems appropriate.

#### **26.1-10.1-02. Acquisitions and dispositions of assets.**

1. Materiality. Acquisitions or dispositions of assets need not be reported under section 26.1-10.1-01 if the acquisitions or dispositions are not material. For purposes of this chapter, a material acquisition, or the aggregate of any series of related acquisitions during any thirty-day period, or disposition, or the aggregate of any series of related dispositions during any thirty-day period, is one that is nonrecurring and not in the ordinary course of business and involves more than five percent of the reporting insurer's total admitted assets as reported in its most recent statutory statement filed with the insurance department of the insurer's state of domicile.
2. Scope.
  - a. Asset acquisitions subject to this chapter include every purchase, lease, exchange, merger, consolidation, succession, or other acquisition other than the construction or development of real property by or for the reporting insurer or the acquisition of materials for this purpose.
  - b. Asset dispositions subject to this chapter include every sale, lease, exchange, merger, consolidation, mortgage, hypothecation, assignment whether for the benefit of creditors or otherwise, abandonment, destruction, or other disposition.
3. Information to be reported.
  - a. The following information is required to be disclosed in any report of a material acquisition or disposition of assets:
    - (1) Date of the transaction;
    - (2) Manner of acquisition or disposition;
    - (3) Description of the assets involved;
    - (4) Nature and amount of the consideration given or received;
    - (5) Purpose of, or reason for, the transaction;
    - (6) Manner by which the amount of consideration was determined;
    - (7) Gain or loss recognized or realized as a result of the transaction; and

- (8) Names of the persons from whom the assets were acquired or to whom they were disposed.
- b. Insurers are required to report material acquisitions and dispositions on a nonconsolidated basis unless the insurer is part of a consolidated group of insurers that utilizes a pooling arrangement or one hundred percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer ceded substantially all of its direct and assumed business to the pool. An insurer is deemed to have ceded substantially all of its direct and assumed business to a pool if the insurer has less than one million dollars total direct plus assumed written premiums during a calendar year that are not subject to a pooling arrangement and the net income of the business not subject to the pooling arrangement represents less than five percent of the insurer's capital and surplus.

**26.1-10.1-03. Nonrenewals, cancellations, or revisions of ceded reinsurance agreements.**

- 1. Materiality and scope.
  - a. Nonrenewals, cancellations, or revisions of ceded reinsurance agreements or new ceded reinsurance agreements need not be reported under section 26.1-10.1-01 if the nonrenewals, cancellations, or revisions of ceded reinsurance agreements or new ceded reinsurance agreements are not material. For purposes of this chapter, a material nonrenewal, cancellation, or revision of a ceded reinsurance agreement or a material new ceded reinsurance agreement is one that affects:
    - (1) As respects property and casualty business, including accident and health business written by a property and casualty insurer:
      - (a) More than fifty percent of the insurer's total ceded written premium; or
      - (b) More than fifty percent of the insurer's total ceded indemnity and loss adjustment reserves.
    - (2) As respects life, annuity, and accident and health business, more than fifty percent of the total reserve credit taken for business ceded, on an annualized basis, as indicated in the insurer's most recent annual statement.
    - (3) As respects either property and casualty or life, annuity, and accident and health business, either of the following events constitutes a material revision that must be reported:
      - (a) An authorized reinsurer representing more than ten percent of a total cession is replaced by one or more unauthorized reinsurers; or
      - (b) Previously established collateral requirements have been reduced or waived as respects one or more unauthorized reinsurers representing collectively more than ten percent of a total cession.
  - b. However, filing is not required if:
    - (1) As respects property and casualty business, including accident and health business written by a property and casualty insurer, the insurer's total ceded written premium represents, on an annualized basis, less than ten percent of its total written premium for direct and assumed business; or
    - (2) As respects life, annuity, and accident and health business, the total reserve credit taken for business ceded represents, on an annualized basis, less than ten percent of the statutory reserve requirement prior to any cession.
- 2. Information to be reported.
  - a. The following information is required to be disclosed in any report of a material nonrenewal, cancellation, or revision of ceded reinsurance agreements or material new ceded reinsurance agreements:
    - (1) Effective date of the nonrenewal, cancellation, revision, or new agreement;
    - (2) The description of the transaction with an identification of the initiator of the transaction;
    - (3) Purpose of, or reason for, the transaction; and

- (4) If applicable, the identity of the replacement reinsurers.
- b. Insurers are required to report all material nonrenewals, cancellations, or revisions of ceded reinsurance agreements or material new ceded reinsurance agreements on a nonconsolidated basis unless the insurer is part of a consolidated group of insurers that utilizes a pooling arrangement or one hundred percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer ceded substantially all of its direct and assumed business to the pool. An insurer is deemed to have ceded substantially all of its direct and assumed business to a pool if the insurer has less than one million dollars total direct plus assumed written premiums during a calendar year which are not subject to a pooling arrangement and the net income of the business not subject to the pooling arrangement represents less than five percent of the insurer's capital and surplus.