

2. includes a provision pursuant to R.S.22:941(F)(1) whereby the assuming insurer, if not authorized or accredited, has submitted to the jurisdiction of an alternative dispute resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to give such court or panel jurisdiction, has designated an agent upon whom service of process may be effected, and has agreed to abide by the final decision of such court or panel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(H), 3 and 947.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995).

§3523. Agreements Requiring Approval

A. The following kinds of reinsurance agreements shall not be entered into by any domestic insurer unless they are first submitted to the Commissioner of Insurance for his written approval, who shall approve the same if the terms thereof do not injuriously affect the rights of policyholders of any of the insurers parties thereto:

1. agreements of reinsurance of any life insurer other than agreements made in the ordinary course of business covering reinsurance of individual lives or joint lives under reinsurance agreements relating to current business; or

2. agreements whereby any insurer, other than a life insurer, cedes any existing outstanding reserves to an insurer not authorized to transact business in this state, or cedes to any insurer or insurers at one time, or during a period of six consecutive months more than 20 percent of the total amount of its outstanding reserves, not including in either case premiums ceded by agreements made in the ordinary course of business covering the reinsurance of individual risks under reinsurance relating to current business.

B. If the Commissioner of Insurance refuses to approve any such agreement submitted for his approval, he shall grant the insurer a hearing upon request.

C. In addition to the requirements of §3523.A, the commissioner may require that any reinsurance agreement must be approved, in writing, by the commissioner when the agreement is between a Louisiana domestic insurer and a nonadmitted or unauthorized assuming insurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(H), 3 and 947.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995).

§3525. Contracts Affected

A. All new and renewal reinsurance transactions entered into after December 31, 1995 shall conform to the requirements of law and this regulation if credit is to be given to the ceding insurer for such reinsurance.

B. Form AR-1

FORM AR-1
CERTIFICATE OF ASSUMING INSURER

(Name of Officer)

(Title of Officer)

of

(Name of Assuming Insurer)

the assuming insurer under a reinsurance agreement(s) with one or more insurers domiciled in

(Name of State)

hereby certify that

(Name of Assuming Insurer)

("Assuming Insurer"):

1. Submits to the jurisdiction of any court of competent jurisdiction in

(Ceding Insurer's State of Domicile)

for the adjudication of any issues arising out of the reinsurance agreement(s), agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement(s) to arbitrate their disputes if such an obligation is created in the agreement(s).

2. Designates the insurance commissioner of

as its lawful Ceding Insurer's State of Domicile)

attorney upon whom may be served any lawful process in any action, suit or proceeding arising out of the reinsurance agreement(s) instituted by or on behalf of the ceding insurer.

3. Submits to the authority of the insurance commissioner of

(Ceding Insurer's State of Domicile)

to examine its books and records and agrees to bear the expense of any such examination.

4. Submits with this form a current list of insurers domiciled in

(Ceding Insurer's State of Domicile)

reinsured by Assuming Insurer and undertakes to submit additions to or deletions from the list to the insurance commissioner at least once per calendar quarter.

Dated: _____

(Name of Assuming Insurer)

BY: _____

(Name of Officer)

(Title of Officer)

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(H), 3 and 947.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995).

Chapter 37. Regulation 57—Life and Health Reinsurance Agreements

§3701. Preamble

A. The Department of Insurance recognizes that insurers possessing a certificate of authority routinely enter into reinsurance agreements that yield legitimate relief to the ceding insurer from strain to surplus.

B. However, it is improper for an insurer possessing a certificate of authority in the capacity of ceding insurer, to enter into reinsurance agreements for the principal purpose of producing significant surplus aid for the ceding insurer,

typically on a temporary basis, while not transferring all of the significant risks inherent in the business being reinsured. In substance or effect, the expected potential liability to the ceding insurer remains basically unchanged by the reinsurance transaction, notwithstanding certain risk elements in the reinsurance agreement, such as catastrophic mortality or extraordinary survival.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Section 2(H), 3 and 947.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995).

§3703. Scope

A. This regulation shall apply to all domestic life and accident and health insurers and to all other life and accident and health insurers which possess a certificate of authority and which are not subject to a substantially similar regulation in their domiciliary state. This regulation shall also similarly apply to property and casualty insurers which possess a certificate of authority with respect to their accident and health business. This regulation shall not apply to assumption reinsurance, yearly renewable term reinsurance or certain nonproportional reinsurance such as stop loss or catastrophe reinsurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Section 2(H), 3 and 947.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995).

§3705. Accounting Requirements

A. No insurer subject to this regulation shall, for reinsurance ceded, reduce any liability or establish any asset in any financial statement filed with the department if, by the terms of the reinsurance agreement, in substance or effect, any of the following conditions exist:

1. renewal expense allowances provided, or to be provided, to the ceding insurer by the reinsurer in any accounting period, are not sufficient to cover anticipated allocable renewal expenses of the ceding insurer on the portion of the business reinsured, unless a liability is established for the present value of the shortfall (using assumptions equal to the applicable statutory reserve basis on the business reinsured). Those expenses include commissions, premium taxes, and direct expenses including, but not limited to, billing, valuation, claims, and maintenance expected by the company at the time the business is reinsured;

2. the ceding insurer can be deprived of surplus or assets at the reinsurer's option or automatically upon the occurrence of some event, such as the insolvency of the ceding insurer, except that termination of the reinsurance agreement by the reinsurer for nonpayment of reinsurance premiums or other amounts due, such as modified coinsurance reserve adjustments, interest and adjustments on funds withheld, and tax reimbursements, shall not be considered to be such a deprivation of surplus or assets;

3. the ceding insurer is required to reimburse the reinsurer for negative experience under the reinsurance agreement, except that neither offsetting experience refunds against current and prior years' losses under the agreement nor payment by the ceding insurer of an amount equal to the current and prior years' losses under the agreement upon voluntary termination of in-force reinsurance by the ceding insurer shall be considered such a reimbursement to the reinsurer for negative experience. Voluntary termination does not include situations where termination occurs because of unreasonable provisions which allow the reinsurer to reduce its risk under the agreement. An example of such a provision is the right of the reinsurer to increase reinsurance premiums or risk and expense charges to excessive levels forcing the ceding company to prematurely terminate the reinsurance treaty;

4. the ceding insurer must, at specific points in time scheduled in the agreement, terminate or automatically recapture all or part of the reinsurance ceded;

5. the reinsurance agreement involves the possible payment by the ceding insurer to the reinsurer of amounts other than from income realized from the reinsured policies. For example, it is improper for a ceding company to pay reinsurance premiums, or other fees or charges to a reinsurer which are greater than the direct premiums collected by the ceding company;

6. the treaty does not transfer all of the significant risk inherent in the business being reinsured. The following table identifies, for a representative sampling of products or type of business, the risks which are considered to be significant. For products not specifically included, the risks determined to be significant shall be consistent with this table.

Risk Categories		
a.	Morbidity	
b.	Mortality	
c.	Lapse	This is the risk that a policy will voluntarily terminate prior to the recoupment of a statutory surplus strain experienced at issue of the policy.
d.	Credit Quality (C1)	This is the risk that invested assets supporting the reinsured business will decrease in value. The main hazards are that assets will default or that there will be a decrease in earning power. It excludes market value declines due to changes in interest rate.
e.	Reinvestment (C3)	This is the risk that interest rates will fall and funds reinvested (coupon payments or monies received upon asset maturity or call) will therefore earn less than expected. If asset durations are less than liability durations, the mismatch will increase.
f.	Disintermediation (C3)	This is the risk that interest rates rise and policy loans and surrenders increase or maturing contracts do not renew at anticipated rates of renewal. If asset durations are greater than the liability durations, the mismatch will increase.
		Policyholders will move their funds into new products offering higher rates. The company may have to sell assets at a loss to provide for these withdrawals.

INSURANCE

Risk Category +—Significant 0—Insignificant	A	B	C	D	E	F
Health Insurance—other than LTC/LTD*	+	0	+	0	0	0
Health Insurance—LTC/LTD*	+	0	+	+	+	0
Immediate Annuities	0	+	0	+	+	0
Single Premium Deferred Annuities	0	0	+	+	+	+
Flexible Premium Deferred Annuities	0	0	+	+	+	+
Guaranteed Interest Contracts	0	0	0	+	+	+
Other Annuity Deposit Business	0	0	+	+	+	+
Single Premium Whole Life	0	+	+	+	+	+
Traditional Non-Par Permanent	0	+	+	+	+	+
Traditional Non-Par Term	0	+	+	0	0	0
Traditional Par Permanent	0	+	+	+	+	+
Traditional Par Term	0	+	+	0	0	0
Adjustable Premium Permanent	0	+	+	+	+	+
Indeterminate Premium Permanent	0	+	+	+	+	+
Universal Life Flexible Premium	0	+	+	+	+	+
Universal Life Fixed Premium	0	+	+	+	+	+
Universal Life Fixed Premium dump-in premiums allowed	0	+	+	+	+	+
* LTC = Long Term Care Insurance LTD = Long Term Disability Insurance						

7.a. The credit quality, reinvestment, or disintermediation risk is significant for the business reinsured, and the ceding company does not (other than for the classes of business excepted in §3705.A.7.b either transfer the underlying assets to the reinsurer or legally segregate such assets in a trust or escrow account or otherwise establish a mechanism satisfactory to the commissioner which legally segregates, by contract or contract provision, the underlying assets.

b. Notwithstanding the requirements of §3705.A.7.a, the assets supporting the reserves for the following classes of business and any classes of business which do not have a significant credit quality, reinvestment or disintermediation risk may be held by the ceding company without segregation of such assets:

- Health Insurance-LTC/LTD
- Traditional Non-Par Permanent
- Traditional Par Permanent
- Adjustable Premium Permanent
- Indeterminate Premium Permanent
- Universal Life Fixed Premium
(no lump-in premiums allowed)

i. The associated formula for determining the reserve interest rate adjustment must use a formula which reflects the ceding company's investment earnings and incorporates all realized and unrealized gains and losses reflected in the statutory statement. The following is an acceptable formula:

$$\text{Rate} = 2 (I + CG)$$

$$X + Y - I - CG$$

where:

- I is the net investment income;
- CG is capital gains less capital losses;
- X is the current year cash and invested assets;
- Y is the same as X but for the prior year.

8. Settlements are made less frequently than quarterly or payments due from the reinsurer are not made in cash within 90 days of the settlement date.

9. The ceding insurer is required to make representations or warranties not reasonably related to the business being reinsured.

10. The ceding insurer is required to make representations or warranties about future performance of the business being reinsured.

11. The reinsurance agreement is entered into for the principal purpose of producing significant surplus aid for the ceding insurer, typically on a temporary basis, while not transferring all of the significant risks inherent in the business reinsured, and in substance or effect, the expected potential liability to the ceding insurer remains basically unchanged.

B. Notwithstanding §3705.A, an insurer subject to this regulation may, with the prior approval of the commissioner, take such reserve credit or establish such asset as the commissioner may deem consistent with the *Louisiana Insurance Code* and rules and regulations of the department, including actuarial interpretations or standards adopted by the department.

C.1. Agreements entered into after the effective date of this regulation which involve the reinsurance of business issued prior to the effective date of the agreements, along with any subsequent amendments thereto, shall be filed by the ceding company with the commissioner within 30 days from its date of execution. Each filing shall include data detailing the financial impact of the transaction. The ceding insurer's actuary who signs the financial statement actuarial opinion with respect to valuation of reserves shall consider this regulation and any applicable actuarial standards of practice when determining the proper credit in financial statements filed with this department. The actuary should maintain adequate documentation and be prepared upon request to describe the actuarial work performed for inclusion in the financial statements and to demonstrate that such work conforms to this regulation.

2. Any increase in surplus net of federal income tax resulting from arrangements described in §3705.C.1 shall be identified separately on the insurer's statutory financial statement as a surplus item (aggregate write-ins for gains and losses in surplus in the Capital and Surplus Account, page 4 of the annual statement) and recognition of the surplus increase as income shall be reflected on a net of tax basis in the "Reinsurance ceded" line, page 4 of the annual statement as earnings emerge from the business reinsured.

a. For example, on the last day of calendar year N, company XYZ pays a \$20 million initial commission and expense allowance to company ABC for reinsuring an existing block of business. Assuming a 34 percent tax rate, the net increase in surplus at inception is \$13.2 million (\$20 million - \$6.8 million) which is reported on the "Aggregate write-ins for gains and losses in surplus" line in the Capital and Surplus account. Six million, eight hundred thousand

dollars (\$6.8) (34 percent of \$20 million) is reported as income on the "Commissions and expense allowances on reinsurance ceded" line of the Summary of Operations.

b. At the end of year N+1 the business has earned \$4 million. ABC has paid \$.5 million in profit and risk charges in arrears for the year and has received a \$1 million experience refund. Company ABC's annual statement would report \$1.65 million (66 percent of [\$4 million - \$1 million - \$.5 million] up to a maximum of \$13.2 million) on the "Commissions and expense allowance on reinsurance ceded" line of the Summary of Operations, and -\$1.65 million on the "Aggregate write-ins for gains and losses in surplus" line of the Capital and Surplus account. The experience refund would be reported separately as a miscellaneous income item in the Summary of Operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Section 2(H), 3 and 947.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995).

§3707. Written Agreements

A. No reinsurance agreement or amendment to any agreement may be used to reduce any liability or to establish any asset in any financial statement filed with the department, unless the agreement, amendment, or a binding letter of intent has been duly executed by both parties no later than the "as of date" of the financial statement.

B. In the case of a letter of intent, a reinsurance agreement or an amendment to a reinsurance agreement must be executed within a reasonable period of time, not exceeding 90 days from the execution date of the letter of intent, in order for credit to be granted for the reinsurance ceded.

C. The reinsurance agreement shall contain provisions which provide that:

1. the agreement shall constitute the entire agreement between the parties with respect to the business being reinsured thereunder and that there are no understandings between the parties other than as expressed in the agreement; and

2. any change or modification to the agreement shall be null and void unless made by amendment to the agreement and signed by both parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Section 2(H), 3 and 947.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995).

§3709. Existing Agreements

A. Insurers subject to this regulation shall reduce to zero by December 31, 1995 any reserve credits or assets established with respect to reinsurance agreements entered into prior to the effective date of this regulation which, under the provisions of this regulation, would not be entitled to recognition of the reserve credits or assets; provided,

however, that the reinsurance agreements shall have been in compliance with laws or regulations in existence immediately preceding the effective date of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Section 2(H), 3 and 947.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995).

§3711. Effective Date

A. This regulation shall become effective November 20, 1995.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Section 2(H), 3 and 947.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995).

Chapter 39. Regulation 58—Viatical Settlements

§3901. Purpose

A. The purpose of Regulation 58 is to set forth certain requirements related to viatical settlements including but not limited to licensure of life and/or annuity insurance producers and the filing of the annual report required under Title 22, the Louisiana Insurance Code, specifically R.S. 22:1795.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1804, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 35:2451 (November 2009).

§3903. Authority

A. Regulation 58 is issued pursuant to the authority vested in the Commissioner of Insurance of the state of Louisiana under R.S. 22:11, and R.S. 22:1804.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1804, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 35:2452 (November 2009).

§3905. Life and/or Annuity Producers Acting as Brokers

A. A life insurance producer licensed in Louisiana who wishes to operate as a viatical settlement broker shall notify the Commissioner of Insurance, in writing, of his intent to act as a viatical settlement broker prior to acting as a broker. The notice shall include:

1. the full name and life insurance producer number of the entity which will be acting as a viatical settlement broker;

2. if a corporation, partnership, limited liability company or other non-natural person the full name and individual license number of each person in the entity which will be acting as a viatical settlement broker on behalf of the entity;