

CHAPTER 26.1-09 RECIPROCAL OR INTERINSURANCE EXCHANGES

26.1-09-01. Reciprocal or interinsurance exchange authorized.

Individuals, partnerships, and corporations of this state, in this chapter referred to as subscribers, may exchange reciprocal or interinsurance contracts other than life insurance, with each other or with individuals, partnerships, and corporations of other states and countries to provide indemnity among themselves against any loss which may be insured against under authority of law.

26.1-09-02. Domestic corporations have right to exchange contracts.

Any domestic corporation, in addition to the rights, powers, and franchises specified in its articles of incorporation, as a subscriber, may exchange insurance contracts of the kind and character mentioned in this chapter. The right to exchange the contracts is incidental to the purposes for which the corporation was organized and is granted as fully as the rights and powers expressly conferred upon the corporation.

26.1-09-03. Reciprocal or interinsurance contracts - Execution.

Reciprocal or interinsurance contracts may be executed by an attorney, insurance producer, or other representative, in this chapter designated as an attorney, duly authorized and acting for the subscribers. The attorney may be a corporation. The office of the attorney may be maintained at the place designated by the subscribers in the power of attorney.

26.1-09-04. Subscribers to file verified declaration with commissioner - Contents.

The subscribers contracting among themselves to conduct a reciprocal or interinsurance exchange through their attorney, shall file with the commissioner a declaration verified by the oath of the attorney, or when the attorney is a corporation, by the oath of a chief officer thereof, setting forth:

1. The name of the attorney and the name or designation under which contracts are issued. The name or designation may not be so similar to any name or designation adopted by any attorney or any insurance organization in the United States which was writing the same class of insurance prior to the adoption of the name or designation as to confuse or deceive.
2. The kind or kinds of insurance to be effected or exchanged.
3. A copy of the form of policy, contract, or agreement under or by which such insurance is to be effected or exchanged.
4. A copy of the form of the power of attorney or other authority of the attorney under which the insurance is to be effected or exchanged.
5. The location of the office from which the contracts or agreements are to be issued.
6. That applications have been made for indemnity upon at least one hundred separate risks aggregating not less than one million five hundred thousand dollars as represented by executed contracts or bona fide applications to become concurrently effective.
7. That assets conforming to section 26.1-09-08 are in the possession of the attorney and are available for payment of losses.

26.1-09-05. Attorney to file statement authorizing suit and consenting to service.

Concurrently with the filing of the declaration provided for by section 26.1-09-04, the attorney shall file with the commissioner a written statement executed by the attorney for the subscribers conditioned that upon the issuance of the certificate of authority:

1. Civil actions may be brought in connection with the policies, contracts, or agreements entered into under this chapter in the county in which any property insured in the policies, contracts, or agreements is located or in which any accident insured against occurs.

2. Service of process may be made upon the commissioner in all civil actions arising in this state out of the policies, contracts, or agreements entered into under this chapter.

26.1-09-06. Consent to service of process - Judgment - Satisfaction.

Service of process made upon the commissioner is valid and binding upon all subscribers at any time exchanging reciprocal or interinsurance contracts through the attorney filing the statement required under section 26.1-09-05. A judgment rendered in any case of the nature described in section 26.1-09-05 is valid and binding upon all subscribers as their liability may appear and may be satisfied out of any funds in the possession of the attorney belonging to the subscribers.

26.1-09-07. Maximum indemnity on fire risk - Statement of maximum liability on single risk.

A subscriber to a reciprocal or interinsurance contract may not assume on any single fire insurance risk an amount greater than ten percent of the net worth of the subscriber. Whenever required so to do by the commissioner, the attorney shall furnish to the commissioner a statement under oath of the attorney showing the maximum amount of indemnity carried upon any single fire insurance risk.

26.1-09-08. Required assets - Reserve fund.

As used in this section, "net premiums or deposits" means the advance payments by subscribers after deducting the amounts specifically provided for expenses in subscribers' agreements. Assets in cash or in securities authorized for investment of funds of insurance companies doing the same kind of business by the laws of the state in which the principal office of the exchange is located must be maintained at all times in an amount equal to fifty percent of the net annual advance premiums or deposits collected and credited to the accounts of subscribers on policies having one year or less to run and pro rata on those for longer periods, or in lieu thereof, one hundred percent of the net unearned premiums or deposits collected and credited to the accounts of subscribers. In addition to those assets, there must be maintained a reserve in the case of all classes of liability or similar kinds of insurance, in cash or in approved or authorized securities, sufficient to discharge all liabilities on all outstanding losses arising under policies issued, calculated on the basis of net premiums or deposits, and in accordance with the laws relating to reserves for companies insuring similar risks. Whenever the assets are less than the amount required by this section or less than one hundred thousand dollars, whichever is the greater, the subscribers, or their attorney for them, shall make up the deficiency.

26.1-09-09. Annual report - Publication of annual statement - Examination.

The attorney, within the time limited for filing the annual report by insurance companies transacting the same kind of business, shall make a report to the commissioner for each calendar year showing the financial condition at the office where the contracts are issued, and shall furnish any additional information and reports the commissioner requires to show the total premiums or deposits collected, the total losses paid, the total amounts returned to subscribers, and the amounts retained for expenses. The attorney may not be required to furnish the names and addresses of any subscribers. The attorney shall publish an abstract of annual statement as required by section 26.1-03-10. The business affairs and assets of the attorney are subject to visitation and examination by the commissioner at the expense of the office examined. If the principal office of the attorney is located in another state, the commissioner, in lieu of an examination conducted by the commissioner's office as provided for in this section, may accept a certified copy of the report of examination made by the insurance office of the state where the principal office is located or by the insurance department of any other state.

26.1-09-10. Attorney's license fee and gross premium tax in lieu of other taxes.

The attorney, in lieu of all other state, county, or municipal fees and taxes of any and every character in this state, shall pay annually to the state, on account of the transaction of the

reciprocal or interinsurance exchange business in this state, a license fee of fifteen dollars and a tax as provided by section 26.1-03-17 on the gross premiums or deposits collected from subscribers in this state after deducting therefrom all sums returned to the subscribers or credited to their accounts other than for losses.

26.1-09-11. Appointment of insurance producers by attorney - Insurance producer's license fee.

The attorney may appoint insurance producers to represent the attorney in this state, but the insurance producers, before writing or soliciting any of the insurance provided for under this chapter, must receive a certificate of authority from the commissioner. The fee for the certificate is that specified in section 26.1-01-07.

26.1-09-12. Certificate of authority - Issuance - Renewal - Suspension and revocation.

Upon compliance with this chapter and the payment of the required fees and taxes, the commissioner shall issue a certificate of authority to the attorney in the name and title mentioned in section 26.1-09-04, to expire on the succeeding April thirtieth. The commissioner may suspend or revoke any certificate in case of a breach of any of the conditions imposed by the chapter after a reasonable notice in writing has been given to the attorney to appear and show cause why the action should not be taken. Any attorney who procures a certificate under this chapter may have the certificate renewed annually thereafter at the time provided for the issuance of renewal certificates to insurance companies. A certificate continues in force and effect until a new certificate is issued or is specifically refused.

26.1-09-13. Solicitation without certificate of authority - Limitation.

For the purpose of organization, and upon the issuance of a permit by the commissioner, powers of attorney may be solicited without a license or certificate of authority, but an attorney, insurance producer, or other person may not effect any insurance contract under this chapter until in compliance with this chapter.

26.1-09-14. General insurance laws not applicable.

Except as otherwise provided in this chapter, no insurance law of this state applies to the exchange of indemnity contracts under this chapter unless the law specifically applies to the contracts.

26.1-09-15. Penalty.

Any attorney who exchanges any contract of indemnity of the kind and character specified in this chapter, and any attorney or representative of the attorney who solicits or negotiates any application for such contract without complying with this chapter, is guilty of a class B misdemeanor.