



Ohio Revised Code

Section 3905.73 Responsibilities of managing general agent.

Effective: August 8, 1991

Legislation: Senate Bill 137 - 119th General Assembly

(A) No person acting in the capacity of a managing general agent shall place business with an insurer, unless there is in force a written contract between the parties that sets forth the responsibilities of each party, specifies the division of responsibilities where both parties share responsibility for a particular function, and contains at a minimum the substance of the requirements and conditions set forth in divisions (B) to (L) of this section.

(B) The insurer may immediately terminate the contract for cause upon giving written notice to the managing general agent. Upon giving written notice to the managing general agent, the insurer may immediately suspend the underwriting authority of the managing general agent during the pendency of any dispute regarding the cause for termination.

(C) The managing general agent shall render accounts to the insurer detailing all transactions and remit all funds due under the contract to the insurer on not less than a monthly basis.

(D) The managing general agent shall hold all funds collected for the account of an insurer in a fiduciary capacity in a bank that is a member of the federal reserve system. The managing general agent shall use this account for all payments on behalf of the insurer. If the managing general agent represents more than one insurer, the managing general agent shall maintain separate accounts for each insurer. The managing general agent may retain no more than three months' estimated claims payments and allocated loss adjustment expenses in each account. The managing general agent shall not commingle the funds in an account with the funds in any other account held by the managing general agent.

(E) The managing general agent shall maintain separate records of business written by the managing general agent. The insurer shall have access to and the right to copy, in a form usable by the insurer, all accounts and records related to its business. The superintendent of insurance shall have access to and the right to copy, in a form usable to the superintendent, all books, bank accounts, records, contracts, and other documents, including the contract required by division (A) of this section, of the



managing general agent.

(F) The managing general agent shall not assign the contract in whole or part.

(G) The contract shall contain appropriate underwriting guidelines, including, but not limited to, all of the following:

(1) The maximum annual premium volume;

(2) The basis of the rates to be charged;

(3) The types of risks that may be written;

(4) Maximum limits of liability;

(5) Applicable exclusions;

(6) Territorial limitations;

(7) Policy cancellation provisions;

(8) The maximum policy period.

(H) The insurer may cancel or refuse to renew any policy of insurance subject to applicable laws, rules, and regulations.

(I) If the contract permits the managing general agent to settle claims on behalf of the insurer, all of the following apply:

(1) The managing general agent shall report every claim to the insurer no later than thirty days after the claim is reported to the managing general agent.

(2) The managing general agent shall send a copy of the claim file to the insurer as soon as any of the



following becomes known, or at any time earlier upon the request of the insurer:

(a) The claim has the potential to exceed one per cent of the policyholder surplus of the insurer as of the thirty-first day of December of the last completed calendar year or exceeds the limit set by the insurer, whichever is less.

(b) The claim involves a coverage dispute.

(c) The claim may exceed the managing general agent's claims settlement authority.

(d) The claim is open for more than six months.

(e) The claim is closed by payment of one per cent of the policyholder surplus of the insurer or an amount set by the insurer, whichever is less.

(3) All claim files are the joint property of the insurer and managing general agent, except upon an order of rehabilitation or liquidation of the insurer, at which time the files become the sole property of the insurer or its estate. If the insurer is subject to an order of rehabilitation or liquidation, the managing general agent shall have reasonable access to and the right to copy the files on a timely basis.

(4) Any settlement authority granted to the managing general agent may immediately be terminated for cause upon the provision of written notice by the insurer to the managing general agent. The settlement authority shall immediately terminate upon the termination of the contract, unless otherwise specified in writing by the insurer. Upon giving written notice to the managing general agent, the insurer may immediately suspend the settlement authority during the pendency of any dispute regarding the cause for termination.

(J) Where electronic claim files are in existence, the contract shall address the timely transmission of the data.

(K) If the contract provides for a sharing of interim profits by the managing general agent and if the managing general agent has the authority to determine the amount of the interim profits by



establishing loss reserves, controlling claim payments, or in any other manner, the interim profits shall not be paid to the managing general agent until the profits have been verified by an on-site review pursuant to division (C) of section 3905.74 of the Revised Code and until one year after the profits are earned for property and health insurance business and five years after they are earned for casualty insurance business.

(L) No managing general agent shall do any of the following:

(1) Bind reinsurance or retrocessions on behalf of the insurer, except that the managing general agent may bind facultative reinsurance contracts pursuant to obligatory facultative agreements if the contract with the insurer contains reinsurance underwriting guidelines including, for both reinsurance assumed and ceded, a list of reinsurers with which the automatic agreements are in effect, the coverages and amounts or percentages that may be reinsured, and commission schedules;

(2) Commit the insurer to participate in insurance or reinsurance syndicates;

(3) Appoint any producer without assuring that the producer is lawfully licensed to transact the type of insurance for which he is appointed;

(4) Without prior written approval of the insurer, pay or commit the insurer to pay a claim over a specified amount, net of reinsurance, which amount shall not exceed one per cent of the policyholder surplus of the insurer as of the thirty-first day of December of the last completed calendar year;

(5) Without prior written approval of the insurer, collect any payment from a reinsurer or commit the insurer to any claim settlement with a reinsurer. A report of any such payment or claim settlement shall be forwarded promptly to the insurer.

(6) Permit its producers to serve on the board of directors of the insurer;

(7) Jointly employ an individual who is employed by the insurer;

(8) Appoint a submanaging general agent or other person to act as an agent on its behalf.