

#### **11 NCAC 11C .0114 CERTIFICATES OF CONTRIBUTION**

Every domestic insurance company may, upon petition to the Commissioner and upon receipt of his approval thereof, issue certificates of contribution of surplus for the reasons and purposes set forth in the petition to the Commissioner.

Approval of the issuance of certificates of contributions may be granted only upon the following conditions and will be effective only as to transactions performed in conformity therewith:

- (1) No certificate evidencing the contribution under authorization hereof shall be issued except substantially in the form and text as may be approved by the Commissioner.
- (2) No commission, selling or other expense is to be paid or incurred in respect to any transaction authorized, except that regular salaried employees of the petitioner may perform any and all acts necessary, convenient or advisable in connection with the transactions authorized, fees may be paid for legal counsel, accounting and related services, and petitioner may incur and pay other normal expense incurred in connection with the issuance of the certificates of contribution.
- (3) No advertisement, prospectus, or other writing relating to the certificates of contribution, except regular business correspondence relating to specific problems peculiar to the parties thereto, shall be issued, circulated or published until after the same has been filed with and authorized in writing by the Commissioner.
- (4) At any time upon the request of the Commissioner and in any event within 30 days from and after the issuance of any certificate of contribution and after the completion of the transactions authorized, petitioner shall make and file with said commissioner its verified report setting forth the transactions accomplished pursuant to the authority granted, and setting forth the date of issuance of the certificate of contribution, the proceeds derived therefrom and the disposition of such proceeds, and petitioner shall attach to such report a conformed copy of the contribution certificates issued pursuant to said authorization.
- (5) In any financial statement required by law to be filed by petitioner with the Commissioner, or which may be published or distributed by petitioner, the principal sum of and accrued interest of these and any other outstanding certificates of contribution, which has not become a liability in accordance with the terms thereof and is not reported in such financial statement as a liability, shall be reported according to the instructions for completing the appropriate NAIC financial statement blank. Such amount shall be reported on the appropriate line on page 3 of the financial statement as "certificates of contribution". Other descriptions, such as "debentures", "surplus notes", "guaranty fund", or "guaranteed certificates", are deemed misleading and are not permitted.
- (6) The Commissioner may, from time to time, for cause amend, continue or alter his approval or temporarily suspend the rights of the petitioner hereunder or may revoke this authority.
- (7) Unless revoked, suspended, or amended or continued upon due petition therefor filed before the expiration date hereof the authority granted hereunder is valid for a period of five years and such authority shall automatically terminate on the close of business on the last day of the month in which this authority was originally granted.

Certificates of contribution issued hereunder are not to be construed as guaranty fund certificates as specifically provided for under G.S. 58-12-1 and 58-8-20.

*History Note: Authority G.S. 58-2-40; 58-7-163;  
Eff. February 1, 1976;  
Readopted Eff. February 28, 1978;  
Amended Eff. April 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.*