

## CHAPTER 68A

### TITLE INSURERS

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#### 68A.01 REAL ESTATE TITLE INSURANCE COMPANIES.

Subdivision 1. [Repealed, 1969 c 7 s 30]

Subd. 2. **Guaranty fund and investment thereof.** Before issuing any policy or other contract of guaranty or insurance, every real estate title insurer shall set apart and keep separate a guaranty fund of \$100,000 or an amount equal to two-fifths of its capital stock whichever is the greater. The guaranty fund shall be invested according to law.

Subd. 3. **Deposit of guaranty fund.** The securities in which the guaranty fund is invested shall be duly deposited with the commissioner in accordance with section 60A.10, subdivision 4, and the commissioner's certificate thereof procured, as provided by law. This deposit shall be maintained unimpaired and the principal of the fund shall be applied only to the payments of losses and expenses by reason of its guaranty and insurance contracts, with the right to the company to collect the income thereof and to substitute other like securities of equal amount and value from time to time. In the case of a foreign insurer, the deposit may be made with the commissioner of the domicile state of such foreign insurer and that commissioner's certificate thereof shall be accepted by the commissioner.

Subd. 4. **Investment of other funds.** After the investment of such portion of its capital stock as hereinbefore provided and the deposit of the securities in its guaranty fund as aforesaid the remainder of its capital stock and funds may be invested in such securities, records, and equipment as the board of directors or the board of trustees of the company shall determine to be suitable for the transaction of its business, unless otherwise limited by this chapter.

Subd. 5. **Other powers.** In addition to the powers now possessed, these companies are authorized to make abstracts of title to real property for compensation.

Subd. 6. **Admitted asset standards.** An investment in a title plant or plants in an amount equal to the actual cost must be allowed as an admitted asset for title insurers. The aggregate amount of the investment must not exceed the lesser of 20 percent of admitted assets or 40 percent of surplus to policyholders, both as required to be shown on the statutory balance sheet of the insurer for its most recently filed statement with the commissioner. If the amount of the investment exceeds the limits in this subdivision, the excess amount must be recorded as a nonadmitted asset.

**History:** 1967 c 395 art 9 s 1; 1969 c 7 s 29; 1969 c 253 s 1,2; 1974 c 425 s 9; 1986 c 444; 1991 c 325 art 21 s 7; 2000 c 350 s 11,12; 2014 c 198 art 4 s 9

#### 68A.02 HISTORIC STATUTORY PREMIUM RESERVE.

Subdivision 1. **1964-2001 premium reserve.** Upon issuance of each contract of title insurance issued on or after January 1, 1964, through January 1, 2001, by a domestic real estate title insurer, there shall be reserved initially a sum equal to ten percent of the original premium charged therefor. At the end of each

calendar year following the year in which the contract of title insurance is issued, there shall be a reduction in the sum so reserved in the amount of one-twentieth of such sum. On any contract of title insurance issued prior to January 1, 1964, by a domestic real estate title insurer, a reserve shall be set up on January 1, 1964, and thereafter maintained in such sum as would have been required if the foregoing requirements with respect to title insurance reserves had existed at and after the date of the contract of title insurance. Such sums herein required to be reserved shall at all times and for all purposes be considered and constitute unearned portions of the original premiums on such contracts of title insurance, shall be charged as a reserve liability of the real estate title insurer in determining its financial condition, and, for the purpose of applying the provisions of section 60A.23, subdivision 4, shall be deemed to constitute the whole amount of the premiums on the unexpired risks of such real estate title insurer.

Subd. 2. **2001-2004 premium reserve.** (a) Additions to the reserve after January 1, 2001, and through January 1, 2004, must be made out of total charges for title insurance policies and guarantees written, equal to the sum of the following items, as set forth in the title insurer's most recent annual statement filed with the commissioner:

(1) for each title insurance policy on a single risk written or assumed after January 1, 2001, a minimum rate of \$0.36 per \$1,000 of net retained liability for policies under \$500,000 and \$0.16 per \$1,000 of net retained liability for policies of \$500,000 or greater; and

(2) a minimum of eight percent of escrow, settlement, and closing fees collected in contemplation of the issuance of title insurance policies or guarantees.

(b) The amounts in paragraph (a) must be released from the reserve in accordance with section 68A.03, subdivision 3, paragraph (b).

**History:** 1967 c 395 art 9 s 2; 2000 c 350 s 13; 2004 c 227 s 1; 2014 c 198 art 4 s 10

### 68A.03 RESERVES.

Subdivision 1. **Requirements.** After January 1, 2001, the financial condition of an insurer doing business under this chapter must be determined by applying the general provisions of the insurance code requiring the establishment of reserves sufficient to cover all known and unknown liabilities including allocated and unallocated loss adjustment expense, except that a title insurer shall also establish and maintain the reserves required by this section.

Subd. 2. **Claim reserves.** A title insurer shall establish and maintain a known claim reserve in an amount estimated to be sufficient to cover all unpaid losses, claims, and allocated loss adjustment expenses arising under title insurance policies, guaranteed certificates of title, guaranteed searches, and guaranteed abstracts of title and all unpaid losses, claims, and allocated loss adjustment expenses for which the title insurer may be liable, and for which the insurer has received notice by or on behalf of the insured, holder of a guarantee, or escrow or security depositor.

Subd. 3. **Statutory premium reserve.** (a) A title insurer shall establish and maintain a statutory premium reserve consisting of:

(1) the amount of statutory premium reserve required by the laws of the domiciliary state of the insurer if the insurer is a foreign or non-U.S. title insurer; or

(2) if the insurer is a domestic title insurer of this state, a statutory or unearned premium reserve consisting of:

(i) the amount of the statutory or unearned premium or reinsurance reserve legally held on January 1, 2004, which balance must be released according to the law in effect at the time the sums were added to the reserve, all as set forth in section 68A.02; and

(ii) after January 1, 2004, and until December 31, 2009, a sum equal to a minimum of eight percent of the total of subitems (A) and (B). After January 1, 2010, a sum equal to a minimum of 6.5 percent of the total of subitems (A) and (B):

(A) direct risk premiums written; and

(B) premiums for reinsurance assumed, plus other income, less premiums for reinsurance ceded as set forth in schedule P of the title insurer's most recent annual statement filed with the commissioner.

(b) The aggregate of the amounts set aside in this reserve in any calendar year pursuant to paragraph (a), clause (2), item (ii), must be released from the reserve and restored to net profits over a period of 20 years at an amortization rate not to exceed the following formula: 35 percent of the aggregate sum on July 1 of the year next succeeding the year of addition; 15 percent of the aggregate sum on July 1 of each of the succeeding two years; ten percent of the aggregate sum on July 1 of the next succeeding year; three percent of the aggregate sum on July 1 of each of the next three succeeding years; two percent of the aggregate sum on July 1 of each of the next three succeeding years; and one percent of the aggregate sum on July 1 of each of the next succeeding ten years.

(c) The insurer shall calculate an adjusted statutory or unearned premium reserve as of the year of first application of paragraph (a), clause (2), item (ii). The adjusted reserve must be calculated as if paragraph (a), clause (2), item (ii), had been in effect for all years beginning 20 years before the year of first application of paragraph (a), clause (2), item (ii). For purposes of this calculation, the balance of the reserve as of that date is considered to be zero. If the adjusted reserve so calculated exceeds the aggregate amount set aside for statutory or unearned premiums in the insurer's most recent annual statement filed with the commissioner, the insurer shall, out of total charges for policies of title insurance, increase its statutory or unearned premium reserve by an amount equal to one-sixth of that excess in each of the succeeding six years, beginning with the calendar year that includes the year of first application of paragraph (a), clause (2), item (ii), until the entire excess has been added.

(d) The aggregate of the amounts set aside in this reserve in any calendar year as adjustments to the insurer's statutory or unearned premium reserve pursuant to paragraph (c) must be released from the reserve and restored to net profits, or equity if the additions required by paragraph (c) reduced equity directly, over a period not exceeding ten years pursuant to the following table:

Year of addition	Release
Year 1*	Equally over ten years
Year 2	Equally over nine years
Year 3	Equally over eight years
Year 4	Equally over seven years
Year 5	Equally over six years
Year 6	Equally over five years

\*The calendar year following the year of first application of paragraphs (a), clause (2), item (ii), (b), and (c).

(e) A supplemental reserve must be established consisting of any other reserves necessary, when taken in combination with the reserves required by this section and section 68A.02, to cover the company's liabilities with respect to all losses, claims, and loss adjusted expenses.

(f) Each title insurer subject to the provisions of this chapter shall file with its annual statement, required under section 60A.13, subdivision 1, a certification by a member in good standing of the American Academy of Actuaries. The actuarial certification required of a title insurer must conform to the National Association of Insurance Commissioners' annual statement instructions for title insurers.

**History:** 2000 c 350 s 14; 2004 c 227 s 2; 2011 c 61 s 6

#### **68A.04 DEFINITIONS.**

Subdivision 1. **Direct risk premiums.** For purposes of this chapter, "direct risk premiums" means the charge for title insurance made by a title insurer or its agents according to the insurer's rate filing approved by the commissioner of commerce without a deduction for commissions paid to or retained by the agent and is that portion of the fee charged by a title insurer to an insured or an applicant for insurance for the assumption by the title insurer of the risk created by the issuance of the title insurance policy. Direct risk premiums of a title insurer do not include any other charge or fee for abstracting, searching, or examining the title, or for escrow, closing, or other related services.

Subd. 2. **Title insurance.** For purposes of this chapter, "title insurance" means insuring owners of real or personal property, the holders of liens, interests or encumbrances thereon, or others interested therein, against loss or damage suffered by reason of liens, encumbrances upon, defects in, or the unmarketability of the title to the property; the invalidity, impairment, lack of priority, or unenforceability of any liens or encumbrances on the property; or the doing, or proposing to do, any business in substance equivalent to any of the foregoing whether or not designed to evade the provisions of this chapter.

**History:** 2004 c 227 s 3; 2008 c 347 s 2; 2014 c 198 art 4 s 11