

TITLE INSURANCE COMPANIES MUST MAINTAIN A RESERVE

Act of Apr. 26, 1929, P.L. 834, No. 362

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AN ACT

Requiring all title insurance companies to create and maintain a reserve; fixing the amount thereof, and regulating the same.

Section 1. Insurance Reserve.--

(a) Reserve Fund Required.--Be it enacted, &c., That all companies heretofore or which may hereafter be incorporated for the insurance of owners of real estate, mortgages, and others interested in real estate, from loss by reason of defective titles, liens, and encumbrances, as well as all title insurance and trust companies receiving deposits, heretofore incorporated and authorized by charter or by law to carry on said business, shall, from and after the approval of this act, establish and maintain a reserve fund for the protection of policy holders, in the manner herein provided.

(b) Establishment and Maintenance of Fund.--Said reserve shall be established by setting aside a sum equal to ten per cent of the premium (that is the sum charged for insurance over and above examination and settlement fees) paid on each policy of insurance which such company may hereafter issue, until the total amount set aside shall equal two hundred and fifty thousand dollars: Provided, That the said total reserve fund may, with the consent of the secretary, be set aside at any one time, or from time to time, out of surplus and undivided profits. Said ten per cent of each premium shall be known as the reserve, and the aggregate of said reserves of all policies issued and outstanding shall be known as the reserve fund. The reserve fund shall be maintained as herein provided so long as liability on any policies shall be outstanding.

(c) Custody, Supervision by Secretary.--The custody of said reserve fund shall be retained by the company, and the fund shall be kept separate and apart from other assets of the company in the manner hereinafter provided. The secretary is hereby required, from time to time, to make investigation to ascertain that a reserve fund equal to the amount required by clause (b) of this section is so maintained. Should any company neglect or refuse to establish or maintain such reserve fund, as herein provided, the secretary shall, by an order under his hand and seal of office, direct said company either to comply with the provisions of this section or to discontinue doing a title insurance business.

(d) Investment of Reserve Fund.--Said title insurance reserve fund shall be invested by such companies in first mortgage or other securities designated by law as legal investments for trust funds, and such investment of any accumulated reserve shall be made whenever such accumulation shall amount to one thousand dollars.

Said mortgages or other such securities so held shall be carried at cost price, but in no case at more than market price, and, in case there shall be a depreciation in the market price

of any such securities, such company shall make good any such depreciation by the addition of other legal investments, so that the said fund may always be maintained at the full amount required by clause (b) of this section. Such companies shall have the right to withdraw from said fund any mortgages or other securities so held therein, by crediting the fund the amount at which such mortgages or securities are valued therein, provided there are immediately substituted therefor other first mortgages or other securities designated by law as legal investments for trust funds.

The securities constituting a reserve fund shall be earmarked and kept separate and apart from the other assets of the company. The income of the reserve fund shall become part of the general assets of the company.

(e) Cancellation of Policy.--Whenever any policy of title insurance hereafter issued is surrendered by the holder, cancelled, or liability thereon completely discharged, the reserve therefor may be withdrawn or credited against reserves that may be due.

(f) Reserve Fund to Be a Trust Fund.--It is the intent and purpose of this section that the reserve fund hereby directed to be set aside shall constitute a separate and distinct trust fund for the protection of policy holders, and shall not be subject to distribution among depositors or other creditors, until all policy holders have been paid in full, or the liability on the policies contingent or actual has been completely discharged.

(g) Reinsurance by Secretary.--In the event of the secretary's taking possession of and winding up any company, the secretary is authorized, if it shall seem advisable and practicable to him, to use the reserve fund to purchase reinsurance for the liabilities represented by the policies outstanding against such fund. Acceptance of the policy of the reinsuring company shall operate as a complete discharge of liability under the policy of the insolvent company. Should any policy holder refuse to accept the policy of the reinsuring company, he shall only be entitled to receive the pro rata portion of his reserve that shall remain upon distribution, as set forth in clause (h) of this section.

(h) Distribution of Reserve Fund.--The reserve fund in the custody of the secretary shall be liable only to the following claims:

One. To pay all outstanding claims of indemnity that have arisen by virtue of any policies of insurance.

Two. For the purchase of reinsurance to indemnify and protect the remaining outstanding policies.

Three. To distribute among policy holders, upon cancellation of their policies, the proportionate share of the reserve fund to which they are entitled, which shall in no case exceed the proportion which the premium paid for any such policy may bear to the whole amount of title insurance then outstanding.

Section 2. The word "secretary," whenever and wherever used in this act, means the Secretary of Banking of the Commonwealth of Pennsylvania.