

CHAPTER 68

TITLE INSURANCE COMPANIES

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NOTE: For definitions, see Section 60.02.

68.01 REAL ESTATE TITLE INSURANCE COMPANIES. The capital stock of every real estate title insurance company shall not be less than \$200,000 and, before issuing any policy or other contract of guaranty or insurance, it shall set apart and keep separate not less than two-fifths thereof, and not less than \$100,000 in any case, as a guaranty fund, and invest the same according to law, and the securities in which the guaranty fund is invested shall be duly deposited with the commissioner and his 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. 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 may be invested in such securities, records, abstract plants, and equipment as the board of directors of the company shall determine to be suitable for the transaction of its business; and in addition to the powers now possessed these companies are authorized to make abstracts of title to real property for compensation. Two-fifths of every increase of capital shall be likewise set apart and added to this fund so that the same shall always be at least two-fifths of its entire capital, and it shall make no contract of guaranty or insurance when it is less.

[*R. L. s. 1685; 1915 c. 196 s. 1*] (3703)

68.02 DISTRIBUTION OF ASSETS TO STOCKHOLDERS. Any corporation heretofore organized under the laws of this state transacting both a title insurance and trust company business, which now or at any time hereafter has ceased to do new business by majority vote of its stockholders, or otherwise, and has not issued a policy of insurance for a period of ten years, and has fully executed or surrendered and been discharged from its trusts, and has satisfied all obligations on account thereof and all other of its debts and obligations, other than its contingent liability on its outstanding policies of insurance, may make distribution of its assets to stockholders by complying with the provisions of this chapter.

[*1911 c. 253 s. 1*] (3704)

68.03 MAY PETITION DISTRICT COURT. Any such corporation may petition the district court of the county of its principal place of business to ascertain and determine the legal nature and character of its liability on its policies of insurance and the amount of securities to be set apart and deposited as a guaranty fund to pay and discharge its liability.

[*1911 c. 253 s. 2*] (3705)

68.04 POWER OF DISTRICT COURT. Upon the presentation of the petition, the court shall fix a time and place for hearing thereon and order six weeks published notice thereof to be given and such other notice to parties interested as it may deem proper. At the time and place so fixed, the court shall hear the allegations and evidence of all parties interested and if it shall appear to the satisfaction of the court that the corporation has ceased to do new business and has not issued a policy of insurance for a period of ten years, has fully executed or surrendered and been discharged from its trusts and has satisfied all obligations on account thereof and all other of its debts and obligations other than its contingent liability on its outstanding policies of insurance, the court shall find and determine the legal nature and character of the liability of the corporation on its policies of insurance and the amount of securities to be set apart and deposited as a guaranty fund to pay and discharge this liability. Evidence as to the percentage of loss to the amount

of insurance issued, sustained by other title insurance companies doing business in this state or elsewhere and evidence of the cost of reinsuring the holders of all outstanding policies of insurance, shall be competent evidence at the hearing. The court may require such other and further evidence as to it may seem wise and proper. The court shall make and enter its order and decree upon the petition, authorizing and directing the corporation, upon depositing with the commissioner securities of the character described in section 50.14, clauses (1), (2), (3), (4), (7), and (8), of the market value and in an amount equal to the amount so found and determined by the court to be deposited, as aforesaid, to distribute to its stockholders such part of its other assets as its board of directors may by resolution from time to time determine.

[1911 c. 253 s. 3] (3706)

68.05 SECURITIES, DEPOSITS; GUARANTY FUND. The corporation shall file with the commissioner a certified copy of the order and decree of the court, deposit with him securities of the character and amount specified in the order, and receive therefor his receipt; thereupon it may distribute its other assets, or such part thereof as it may deem proper, to its stockholders. These deposits of securities shall be maintained by the corporation unimpaired as a guaranty fund for creditors of the corporation, for the holders of all its policies of insurance, and for the faithful discharge of all the duties and obligations of the corporation, with the right to collect the income thereof and to substitute from time to time other like authorized securities of equal amount and value.

[1911 c. 253 s. 4] (3707)

68.06 FILING CERTIFIED COPY OF DECREE WITH COMMISSIONER OF BANKS. The corporation shall file with the commissioner of banks a certified copy of the order and decree of the court and the receipt of the commissioner to the corporation for the securities; thereupon the commissioner of banks shall return to the corporation all securities which may have been by it theretofore deposited with him under any law of this state.

[1911 c. 253 s. 5] (3708)

68.07 LIABILITY OF CORPORATION AND STOCKHOLDERS. The liability of the corporation, the liability of any stockholder therein upon any contract or obligation, whether of insurance or otherwise, and the right of the holder of any policy of insurance issued by the corporation shall not be in any manner affected by this chapter.

[1911 c. 253 s. 6] (3709)

68.10 TITLE INSURANCE RESERVE. Upon issuance of each contract of title insurance issued on or after January 1, 1964, by a domestic real estate title insurance company 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 insurance company 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 insurance company in determining its financial condition, and, for the purpose of applying the provisions of section 60.47, shall be deemed to constitute the whole amount of the premiums on the unexpired risks of such real estate title insurance company.

[1963 c 732 s 1]