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INSURANCE CODE - INS

DIVISION 1. GENERAL RULES GOVERNING INSURANCE [100 - 1879.8] (*Division 1 enacted by Stats. 1935, Ch. 145.*)

PART 2. THE BUSINESS OF INSURANCE [680 - 1879.8] (*Part 2 enacted by Stats. 1935, Ch. 145.*)

CHAPTER 1. General Regulations [680 - 1113] (*Chapter 1 enacted by Stats. 1935, Ch. 145.*)

ARTICLE 13. Insolvency [980 - 989] (*Article 13 enacted by Stats. 1935, Ch. 145.*)

980. As used in this article, "liability" includes liability for losses reported, expenses, taxes, and all other indebtedness not included in those categories.

(Enacted by Stats. 1935, Ch. 145.)

984. Any mortgage insurer or any mortgage guaranty insurer is insolvent whenever provision for its liabilities and for unearned income would, after exhausting its required insurance surplus, impair its capital paid in so as to reduce it below two hundred fifty thousand dollars (\$250,000) or below 75 percent of the aggregate par value of its issued capital stock.

(Amended by Stats. 1961, Ch. 719.)

985. (a) On or after January 1, 1970, as used in this article and in subdivision (i) of Section 1011, "insolvency" means either of the following:

(1) Any impairment of minimum "paid-in capital" or "capital paid in," as defined in Section 36, required in the aggregate of an insurer by the provisions of this code for the class, or classes, of insurance that it transacts anywhere.

(2) An inability of the insurer to meet its financial obligations when they are due.

(b) On or after January 1, 1970, an insurer cannot escape the condition of insolvency by being able to provide for all its liabilities and for reinsurance of all outstanding risks. An insurer must also be possessed of additional assets equivalent to the aggregate "paid-in capital" or "capital paid in" required by this code after making provision for all those liabilities and for that reinsurance.

(c) On or after October 1, 1967, as used in this code provision for reinsurance of all outstanding risks and "gross premiums without any deduction, received and receivable upon all unexpired risks" means the greater of: (1) the aggregate amount of actual unearned premiums, or (2) the amount reasonably estimated as being required to reinsure in a solvent admitted insurer the unexpired terms of the risks represented by all outstanding policies.

(d) On or after October 1, 1967, an insurer shall make provision for reinsurance of the outstanding risk on policies that provide premiums that are fully earned at inception and on policies that for any other reason do not provide for a return premium to the insured on cancellation prior to expiration.

(e) On or after October 1, 1967, the commissioner shall prescribe standards for reasonably estimating the amount required to reinsure that will provide adequate safeguards for the policyholders, creditors, and the public.

(f) On or after October 1, 1967, this section shall not be applicable to life, title, mortgage, or mortgage guaranty insurers.

(g) In the application of this section to disability insurance, as defined in Section 106, reserves for unearned premiums and amounts reasonably estimated as required to reinsure outstanding risks shall be determined in accordance with the provisions of Section 997.

(Amended by Stats. 2013, Ch. 321, Sec. 6. (AB 1391) Effective January 1, 2014.)

985.5. In the case of the insolvency of an admitted insurer, the commissioner shall prepare a report, which shall be a public record, with respect to the causes and factors which contributed to that insolvency. The report shall be submitted to the Governor and to the Legislature no later than one year from the date of the insolvency.

(Added by Stats. 1990, Ch. 410, Sec. 1.)

985.6. The costs incurred in investigating and preparing the report required by Section 985.5 shall be an expense of administration within the meaning of paragraph (1) of subdivision (a) of Section 1033.

(Added by Stats. 1990, Ch. 1562, Sec. 1.)

986. A life insurer issuing policies on a reserve basis is insolvent whenever its assets are exceeded by the total of the following: (1) the amount necessary to provide for its liabilities; (2) the amount of paid-in capital, as defined in Section 36, required by the provisions of Sections 10510, 10511, and 10512; (3) the amount necessary to provide for reinsurance of all its outstanding risks at the following rates:

(a) In the case of contracts issued in a foreign country, upon the lives of residents thereof, by a domestic insurer authorized to and doing business in that foreign country, the rates shall be in accordance with the standard of mortality approved by the commissioner, as provided by law.

(b) In the case of group insurance, at the rates required by law for valuation thereof.

(c) In the case of all other outstanding risks written prior to January 1, 1892, at the rates based upon the American Experience Table of Mortality with interest at the rate of $4\frac{1}{2}$ percent per annum.

(d) In the case of all its other outstanding risks written from and after December 31, 1891, up to and including December 31, 1907, at rates based upon the Combined Experience or Actuaries' Table of Mortality with interest at the rate of 4 percent per annum.

(e) In the case of all its other outstanding risks written from and after December 31, 1907, and prior to the operative date as to such risks of Article 3a (commencing with Section 10159.1), Chapter 1, Part 2, Division 2, at rates based upon the American Experience Table of Mortality with interest at the rate of $3\frac{1}{2}$ percent per annum, and, where applicable, in accordance with Section 10486.9.

(f) In the case of contracts of disability insurance, as defined in Section 106, according to the standards provided in Section 997.

(g) In the case of all other risks, according to the standards provided in Article 3a (commencing with Section 10489.1), Chapter 5, Part 2, Division 2.

(Amended by Stats. 1974, Ch. 447.)

987. A title insurer is insolvent whenever provision for its liabilities would, after exhausting its required surplus, so far impair its capital paid in as to reduce it below two hundred fifty thousand dollars (\$250,000), or below 75 percent of the aggregate par value of its issued capital stock.

(Amended by Stats. 1961, Ch. 167.)

988. (a) As used in this section:

(1) "Impaired" means a financial situation in which the assets of an insurer are less than the sum of the insurer's minimum required capital, minimum required surplus and all liabilities as determined in accordance with the requirements for the preparation and filing of the annual statement of an insurer.

(2) "Chief executive officer" means the person, irrespective of title, designated by the board of directors or trustees of an insurer as the person charged with the responsibility of administering and implementing the insurer's policies and procedures.

(b) Whenever an insurer is impaired, its chief executive officer shall immediately notify the commissioner, in writing of that impairment and shall also immediately notify in writing all of the board of directors or trustees of the insurer. Any officer, director, or trustee of an insurer shall notify the person serving as chief executive officer of the impairment of the insurer in the event the officer, director, or trustee knows or has reason to know that the insurer is impaired.

(c) Any person who violates this section shall, upon conviction thereof, be fined not more than fifty thousand dollars (\$50,000) or be imprisoned in the county jail for not more than one year, or both.

(Added by Stats. 1990, Ch. 302, Sec. 1.)

989. Any person who does any of the following is guilty of a misdemeanor punishable by not more than one year in county jail:

(a) Conceals any property belonging to an insurer.

(b) Transfers or conceals in contemplation of a state insolvency proceeding his or her own property or property belonging to an insurer.

(c) Conceals, destroys, mutilates, alters or makes a false entry in any document which affects or relates to the property of an insurer or withholds any such document from a receiver, trustee or other officer of a court entitled to its possession.

(Added by Stats. 1990, Ch. 302, Sec. 2.)

