

## CHAPTER 15

### ADMINISTRATION OF DEPOSITS

#### **§1251. Authorized deposits of insurers**

The following deposits of insurers when made through the superintendent shall be accepted and held in trust, subject to the provisions of this chapter: [PL 1973, c. 585, §12 (AMD).]

1. Deposits required under this Title for authority to transact insurance in this State. [PL 1969, c. 132, §1 (NEW).]

2. Deposits of domestic insurers when made pursuant to its charter; or pursuant to the laws of other states, provinces, and countries as requirement for authority to transact insurance in such state, province or country. [PL 1969, c. 132, §1 (NEW).]

3. Deposits in such additional amounts as are permitted to be made under section 1259. [PL 1969, c. 132, §1 (NEW).]

#### SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD).

#### **§1252. Purpose of deposit**

1. Deposits made in this State under section 412 (deposit requirement) shall be held in trust for the respective purposes stated in that section. [PL 1969, c. 132, §1 (NEW).]

2. A deposit made in this State by a domestic insurer transacting insurance in another state, province or country, and as required by the laws of such other state, province or country, shall be held for the protection of all the insurer's policyholders or all its policyholders and creditors or for such other purpose or purposes as may be specified pursuant to such laws. [PL 1969, c. 132, §1 (NEW).]

3. Deposits required under the retaliatory provision, section 428, shall be held for such purposes as is required by such provision, and as specified by the superintendent's order requiring such deposit to be made. [PL 1973, c. 585, §12 (AMD).]

#### SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1969, c. 177, §25 (AMD). PL 1973, c. 585, §12 (AMD).

#### **§1253. Securities eligible for deposit**

1. All such deposits required under section 412 for authority to transact insurance in this State and hereafter made shall consist of securities in negotiable form of kinds eligible for investment of funds of domestic insurers under chapter 13, other than real estate mortgages, and approved by the superintendent for deposit. Deposits heretofore made shall consist of such assets as were then eligible for deposit. [PL 1973, c. 585, §12 (AMD).]

2. All other deposits of a domestic insurer held in this State pursuant to the laws of another state, province or country shall be comprised of securities of the kinds described in subsection 1, and of such additional kind or kinds of securities required or permitted by the laws of such state, province or country.

[PL 1969, c. 132, §1 (NEW).]

3. Deposits of foreign insurers made in this State under the retaliatory provision, section 428, shall consist of such assets as are required by the superintendent pursuant to such provision.

[PL 1973, c. 585, §12 (AMD).]

#### SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1969, c. 177, §26 (AMD). PL 1973, c. 585, §12 (AMD).

#### §1254. Depositary; records

1. Deposits made in this State under this Title shall be made through the superintendent with the Treasurer of State.

[PL 1973, c. 585, §12 (AMD).]

2. The Treasurer of State shall furnish the superintendent, for delivery to the depositing insurer, the Treasurer of State's official certificate identifying the securities deposited, the amount and par value of each, and the Treasurer of State's opinion of their value.

[RR 2021, c. 1, Pt. B, §193 (COR).]

3. The superintendent shall keep a record of the securities comprising the deposit of each insurer, showing as far as practical the amount and market value of each item, and all the superintendent's transactions relative thereto.

[RR 2021, c. 1, Pt. B, §194 (COR).]

#### SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). RR 2021, c. 1, Pt. B, §§193, 194 (COR).

#### §1255. Responsibility for safekeeping

The State shall be responsible for the safekeeping of all securities and receipts delivered to the superintendent under authority of this chapter. [PL 1973, c. 585, §12 (AMD).]

#### SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD).

#### §1256. Custodial arrangements

1. In lieu of deposit with the Treasurer of State as provided in section 1254, upon the insurer's written request and for its greater convenience, the superintendent may in the superintendent's discretion permit the insurer to make and maintain the deposit under custodial arrangements with the trust department of an established bank located in Maine.

[RR 2021, c. 1, Pt. B, §195 (COR).]

2. Where of convenience to the insurer in the buying, selling and exchange of securities comprising its deposit, and in the collection of accruals thereon, the insurer may, with the superintendent's advance written approval, deposit certain of its securities under custodial arrangements with an established bank or trust company located outside this State.

[PL 1973, c. 585, §12 (AMD).]

3. The insurer shall deposit with the Treasurer of State through the superintendent the original receipts issued by the custodian institution for all securities held under such custodial arrangements.

[PL 1973, c. 585, §12 (AMD).]

4. The form and terms of all such custodial arrangements shall be as prescribed or approved by the superintendent consistent with the applicable provisions of this Title.

[PL 1973, c. 585, §12 (AMD).]

5. The insurer shall bear the costs of custodial arrangements, and the State of Maine shall not be responsible for the safekeeping of securities so held.

[PL 1969, c. 132, §1 (NEW).]

#### SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). RR 2021, c. 1, Pt. B, §195 (COR).

#### **§1257. Assignment, transfer of securities or assets**

All assets deposited by an insurer and not negotiable by delivery must be duly assigned or transferred to the superintendent and the superintendent's successors in office. Upon release of any such security to the insurer, the superintendent shall reassign or transfer the same to the insurer. [RR 2021, c. 1, Pt. B, §196 (COR).]

#### SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). RR 2021, c. 1, Pt. B, §196 (COR).

#### **§1258. Appraisal**

The superintendent may, in the superintendent's discretion, prior to acceptance for deposit of any particular security, or at any time thereafter while so deposited, have the same appraised or valued by competent appraisers. The reasonable cost of any such appraisal or valuation must be borne by the insurer. [RR 2021, c. 1, Pt. B, §197 (COR).]

#### SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). RR 2021, c. 1, Pt. B, §197 (COR).

#### **§1259. Excess deposits**

1. If securities deposited by an insurer under this chapter are subject to material fluctuations in market value, the superintendent may, in the superintendent's discretion, require the insurer to deposit and maintain on deposit additional securities in amount reasonably necessary to assure that the deposit at all times has a market value of not less than the amount specified under the law by which the deposit is required.

[RR 2021, c. 1, Pt. B, §198 (COR).]

2. An insurer may otherwise at its option deposit securities in amount exceeding its deposit required or otherwise permitted under this Title by not more than 20% of such required or permitted deposit, or \$20,000, whichever is the larger amount, for the purpose of absorbing fluctuations in the value of securities deposited and to facilitate exchange and substitution of such securities. During the solvency of the insurer any such excess shall be released to the insurer upon its request. During the insolvency of the insurer, such excess deposit shall be released only as provided in section 1263, subsection 4.

[PL 1969, c. 177, §27 (AMD).]

#### SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1969, c. 177, §27 (AMD). PL 1973, c. 585, §12 (AMD). RR 2021, c. 1, Pt. B, §198 (COR).

#### **§1260. Rights of insurer during solvency**

So long as the insurer remains solvent and is in compliance with this Title it may: [PL 1969, c. 132, §1 (NEW).]

1. Demand, receive, sue for and recover the income from the securities deposited;  
[PL 1969, c. 132, §1 (NEW).]

2. Exchange and substitute for the deposited securities, eligible securities of equivalent or greater fair market value; and  
[PL 1969, c. 132, §1 (NEW).]

3. At any reasonable time inspect any such deposit.  
[PL 1969, c. 132, §1 (NEW).]

#### SECTION HISTORY

PL 1969, c. 132, §1 (NEW).

#### **§1261. Levy upon deposit**

No judgment creditor or other claimant of an insurer shall have the right to levy upon any of the assets held in this State as a deposit for the protection of the insurer's policyholders or policyholders and creditors. As to deposits made pursuant to the retaliatory provision, section 428, levy thereupon shall be permitted if so provided in the superintendent's order under which the deposit is required. [PL 1973, c. 585, §12 (AMD).]

#### SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD).

#### **§1262. Deficiency of deposit**

If for any reason the market value of securities of an insurer held on deposit in this State as required under this Title falls below the required amount, the insurer shall promptly deposit other or additional assets eligible for deposit sufficient to cure the deficiency. If the insurer has failed to cure the deficiency within 20 days after receipt of notice thereof by registered mail from the superintendent, the superintendent shall forthwith revoke the insurer's certificate of authority. [PL 1973, c. 585, §12 (AMD).]

#### SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD).

#### **§1263. Duration and release of deposit, in general**

1. Every deposit made in this State by an insurer pursuant to this Title shall be held as long as there is outstanding any liability of the insurer as to which the deposit was so required; or, if a deposit required under the retaliatory provision, section 428, the deposit shall be held for so long as the basis of such retaliation exists.  
[PL 1969, c. 132, §1 (NEW).]

2. Upon the request of a domestic insurer, the superintendent shall return to the insurer the whole or any portion of the assets and securities of the insurer held on deposit when the superintendent is satisfied that the securities so to be returned are subject to no liability and are not required to be longer held by any provision of law or the purposes of the original deposit. If the insurer has reinsured all its outstanding risks in another insurer or insurers authorized to transact insurance in this State, and if so provided in the reinsurance agreement, the superintendent shall deliver such securities to such insurer or insurers so assuming such risks, upon proof to the superintendent's satisfaction:

A. That the assuming insurer has assumed and agreed to discharge all liabilities of every kind due and to become due that the deposit was to secure; [RR 2021, c. 1, Pt. B, §199 (COR).]

B. That the assuming insurer has on deposit in this State or with a State official in the United States, securities in an amount and value not less than the deposit required of the reinsured insurer and that will subsist for the security of the obligations of the reinsured insurer so assumed; and [RR 2021, c. 1, Pt. B, §199 (COR).]

C. That such assets and securities have been duly assigned, transferred and set over to such assuming insurer or insurers. [PL 1969, c. 132, §1 (NEW).]  
[RR 2021, c. 1, Pt. B, §199 (COR).]

3. The superintendent shall return to a foreign insurer any deposit made in this State by the insurer, when the insurer has ceased transacting insurance in this State, or in the United States, and the insurer is not subject to any liability in this State on account of which the deposit was held.  
[PL 1973, c. 585, §12 (AMD).]

4. If the insurer is subject to delinquency proceedings as defined in section 4353 upon the order of a court of competent jurisdiction the superintendent shall yield the insurer's assets held on deposit to the receiver, conservator, rehabilitator or liquidator of the insurer, or to any other properly designated official or officials who succeed to the management and control of the insurer's assets.  
[PL 1973, c. 585, §12 (AMD).]

5. A release of deposited assets may not be made except upon application to and the written order of the superintendent. The superintendent may have no personal liability for any release of any such deposit or part thereof so made by the superintendent in good faith.  
[RR 2021, c. 1, Pt. B, §200 (COR).]

#### SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). RR 2021, c. 1, Pt. B, §§199, 200 (COR).

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