

CHAPTER 93

AN ACT concerning liability exposure for mortgage guaranty insurance companies and amending P.L.1968, c.248.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 3 of P.L.1968, c.248 (C.17:46A-3) is amended to read as follows:

C.17:46A-3 Capital, surplus and contingency reserve requirements.

3. Capital, surplus and contingency reserve requirements.

(a) An insurance company shall not transact the business of mortgage guaranty insurance unless it has paid-in capital of at least \$1,000,000.00 and paid-in surplus of at least \$1,000,000.00.

(b) In addition to the paid-in capital and surplus provided in subsection (a), each mortgage guaranty insurance company shall establish a contingency reserve out of net premiums remaining (gross premiums less premiums returned to policyholders) after establishment of the unearned premium reserve. To the contingency reserve the insurance company shall contribute an amount equal to 50% of such remaining premiums. The yearly contributions to the contingency reserve made during each calendar year shall be maintained for a period of 180 months, except that withdrawals may be made by the insurance company in any given year in which the actual losses exceed the expected losses. The commissioner shall, by regulation, determine when an insurance company may make withdrawals from its contingency reserve.

(c) (1) Except as provided in paragraph (2) of this subsection, a mortgage guaranty insurance company shall not at any time have outstanding a total liability under its aggregate insurance policies exceeding 25 times its policyholders' surplus, such liability to be computed on the basis of the insurance company's liability under its election as provided in subsection (c) of section 4 of P.L.1968, c.248 (C.17:46A-4). In the event that any insurance company has outstanding total liability exceeding 25 times its policyholders' surplus, it shall cease transacting new business until such time as its total liability no longer exceeds 25 times its policyholders' surplus.

(2) On and after the first day of the third month following enactment of P.L.2010, c.93 and continuing for the 36 months thereafter, the commissioner may waive the limit on liability exposure set forth under paragraph (1) of this subsection at the written request of a mortgage guaranty insurance company. The commissioner may approve the request of the mortgage guaranty insurance company upon a finding that the company's financial position is reasonable in relation to the company's outstanding total liability under its aggregate insurance policies, as well as adequate to its financial needs. A company granted a waiver pursuant to this paragraph shall submit quarterly reports to the commissioner concerning the company's financial condition. The commissioner shall promulgate regulations concerning the process for a mortgage guaranty insurance company to submit a written request pursuant to this paragraph, and concerning the information to be indicated in the quarterly reports. The regulations shall specify the information deemed necessary by the commissioner to review the request and any factors to be considered in approving or disapproving the request. The commissioner shall provide an annual briefing to the Assembly Financial Institutions and Insurance Committee and the Senate Commerce Committee, or their successors, on the financial condition of the mortgage guaranty insurance industry.

(d) A mortgage guaranty insurance company shall not declare any dividends except from undivided profits remaining on hand over and above the aggregate of its paid-in capital, paid-in surplus and contingency reserve.

2. This act shall take effect on the first day of the third month next following enactment, but the Commissioner of Banking and Insurance may take any anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved November 30, 2010.