

INSURANCE CODE

TITLE 6. ORGANIZATION OF INSURERS AND RELATED ENTITIES

SUBTITLE D. CASUALTY COMPANIES

CHAPTER 862. FIRE AND MARINE INSURANCE COMPANIES

SUBCHAPTER A. REGULATION OF FIRE AND MARINE INSURANCE COMPANIES

Sec. 862.001. ANNUAL STATEMENT. (a) Each year the president or vice president and the secretary of a fire, marine, or inland marine insurance company shall:

(1) prepare under oath a complete and accurate statement of the condition of the company as of December 31 of the preceding year; and

(2) file the statement with the department before the 62nd day of the year in which it is prepared.

(b) The annual statement must show:

(1) the name and location of the company;

(2) the names and residences of the company's officers;

(3) the amount of the capital stock of the company;

(4) the amount of capital stock paid up;

(5) the property and assets held by the company, specifying:

(A) the location, description, and value, as near as may be, of real property owned by the company and, if the company is organized under the laws of this state, the annual statement must include an abstract of the title to that real property;

(B) the amount of cash on hand and on deposit in banks to the credit of the company and the names of those banks;

(C) the amount of cash held by agents of the company and the names of those agents;

(D) the amount of cash in the course of transmission;

(E) the amount of loans secured by a first mortgage on real property, the rate of interest on each loan, the location and value of each property, and the name of each mortgagor;

(F) the amount of all other bonds and loans, the

rate of interest on each bond or loan, and a description of the security given for each bond or loan;

(G) the amount due the company from judgments that have been obtained and a description of each judgment;

(H) the amount of all stock owned by the company, including a description of the stock, the amount and number of shares, and the par and market values of each kind of stock;

(I) the amount of stock held by the company as collateral security for loans, including the amount loaned on the stock and the par and market values of the stock;

(J) the amount of interest due and unpaid to the company;

(K) a description and value of all other securities; and

(L) if the total value of the equipment exceeds \$2,000, the value of all electronic machines that comprise a data processing system or systems and of all other office equipment, furniture, machines, and labor-saving devices purchased for and used in connection with the business of the insurance company to the extent that the total actual cash market value of those assets is less than five percent of the other admitted assets shown on the statement;

(6) the liabilities of the company, specifying:

(A) losses adjusted and due;

(B) losses adjusted and not due;

(C) losses unadjusted;

(D) losses in suspense and the cause for suspension;

(E) losses resisted and in litigation;

(F) dividends, in scrip or cash, specifying the amount of each declared but not due;

(G) dividends declared and due;

(H) the amount required by law as reserve on all unexpired risks, computed as required by this code;

(I) the amount due banks or other creditors, the name of each bank or creditor, and the amount due each bank or creditor;

(J) the amount of money borrowed by the company, the name of each lender, a description of the security given for each loan, and the rate of any interest; and

(K) all other claims against the company and a description of each claim;

(7) the income of the company during the preceding year, specifying:

(A) separately the amount received, after deducting reinsurance, as fire, marine, and inland marine transportation premiums;

(B) the amount received as interest; and

(C) the amount received from all other sources;

(8) the expenditures of the company during the preceding year, specifying:

(A) the amount of losses paid, showing losses that accrued before and that accrued after the date of the preceding statement, and the amount at which losses were estimated in that statement;

(B) the amount paid as dividends;

(C) the amount paid for return premiums, commissions, salaries, expenses, and other charges of officers, agents, and employees;

(D) the amount paid for federal, state, and local taxes and duties; and

(E) the amount paid for all other expenses;

(9) the largest amount insured by the company in a single risk, naming that risk;

(10) the amount of risks written during the preceding year;

(11) the amount of risks in force that have less than one year to run;

(12) the amount of risks in force that have more than one year but less than three years to run;

(13) the amount of risks that have more than three years to run; and

(14) a statement of whether dividends are declared on premiums received for risks not terminated.

(c) The commissioner may adopt rules defining electronic machines and systems, office equipment, furniture, machines, and labor-saving devices as specified in Subsection (b)(5)(L) and stating the maximum period for which each class of equipment may be amortized.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 862.002. PROHIBITIONS RELATING TO HOLDING REAL PROPERTY; EXCEPTIONS. (a) A fire, marine, or inland marine insurance company may not purchase, hold, or convey real property, except as provided by Subsections (b) and (c).

(b) The company may erect and maintain buildings ample and adequate for the transaction of the company's business.

(c) Subsection (a) does not apply to:

(1) real property mortgaged to the company in good faith as security for a loan previously contracted or for money due;

(2) real property conveyed to the company in satisfaction of a debt previously contracted in the legitimate business of the company or for money due;

(3) real property purchased under a judgment, decree, or mortgage obtained or made for a debt under Subdivision (2); or

(4) a mineral or royalty interest reserved on the sale of real property acquired under Subdivision (1), (2), or (3) before January 1, 1942.

(d) A fire, marine, or inland marine insurance company may not invest more than 33-1/3 percent of the company's admitted assets in real property. A fire, marine, or inland marine insurance company may not invest any of its capital or minimum surplus in real property, other than real property described by Subsection (c).

(e) Section [861.258](#) applies to real property acquired under Subsection (c)(1), (2), or (3).

(f) The commissioner shall appoint at least two competent and disinterested residents of this state to appraise real property described by Subsection (b) when the property is acquired or when the company applies for amendment to its charter. The company shall pay to the commissioner the reasonable cost of the appraisal.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 862.003. ADMITTED ASSETS. The value of the property of the company shown on the report as determined under Section 862.001 and the rules adopted by the commissioner adopted under that section is considered to be an admitted asset of the company for all purposes.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

SUBCHAPTER B. INSURANCE COVERAGE PROVIDED BY FIRE AND MARINE
INSURANCE COMPANIES

Sec. 862.051. KINDS OF INSURANCE AUTHORIZED. On filing notice of its intent with the department, an insurance company engaged in the business of insurance in this state under an appropriate certificate of authority may:

(1) insure houses, buildings, and other property against loss or damage by fire;

(2) insure goods, merchandise, and other property in the course of transportation by land or water, or vessels afloat, regardless of their location;

(3) insure motor vehicles, whether stationary or being operated under the motor vehicle's own power, against loss or damage by fire, lightning, windstorm, hail storm, tornado, cyclone, explosion, transportation by land or water, theft, and collision;

(4) lend money on bottomry or respondentia;

(5) obtain insurance against:

(A) any loss or risk the company has incurred in the course of its business; and

(B) any loss or risk on an interest that the company has in property because of a loan it has made on bottomry or respondentia; and

(6) take any action proper to promote an activity described by this section.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 862.052. PROHIBITIONS RELATING TO LIFE INSURANCE AND LIFE INSURANCE COMPANIES. (a) An insurance company authorized by

its charter to write fire, marine, lightning, tornado, or inland marine insurance in this state may not write life insurance.

(b) An insurance company authorized to write life insurance in this state may not write fire, marine, or inland marine insurance or any other insurance described by Section [862.051](#).

(c) The commissioner shall enforce this section.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 862.053. FIRE INSURANCE: TOTAL LOSS OF REAL PROPERTY.

(a) A fire insurance policy, in case of a total loss by fire of property insured, shall be held and considered to be a liquidated demand against the company for the full amount of such policy. This subsection does not apply to personal property.

(b) An insurance company shall incorporate verbatim the provisions of Subsection (a) in each fire insurance policy issued as coverage on real property in this state.

(c) The commissioner shall require compliance with this section.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 10A.220, eff. Sept. 1, 2003.

Sec. 862.054. FIRE INSURANCE: BREACH BY INSURED; PERSONAL PROPERTY COVERAGE. Unless the breach or violation contributed to cause the destruction of the property, a breach or violation by the insured of a warranty, condition, or provision of a fire insurance policy or contract of insurance on personal property, or of an application for the policy or contract:

(1) does not render the policy or contract void; and

(2) is not a defense to a suit for loss.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 862.055. FIRE INSURANCE: INTEREST OF MORTGAGEE OR TRUSTEE. (a) The interest of a mortgagee or trustee under a fire insurance contract covering property located in this state may not be invalidated by:

(1) an act or neglect of the mortgagor or owner of the

property; or

(2) the occurrence of a condition beyond the mortgagor's or owner's control.

(b) A provision of a contract that conflicts with Subsection (a) is void.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

SUBCHAPTER C. REINSURANCE AND RESERVES

Sec. 862.101. FIRE AND ALLIED LINES OF INSURANCE: AUTHORIZED AND REQUIRED REINSURANCE. (a) In this section, "fire and allied lines of insurance" has the meaning assigned by statute, rules adopted by the commissioner, or lawful custom.

(b) An insurance or reinsurance company that is authorized to write or reinsure fire and allied lines of insurance in this state may reinsure all or any part of a single risk in one or more other solvent insurers.

(c) An insurance company that is incorporated under the laws of the United States or a state of the United States and authorized to write fire and allied lines of insurance in this state may not, unless the excess is reinsured by the company in another solvent insurer, expose itself to any loss or hazard on a single risk in an amount that exceeds 10 percent of the company's paid-up capital stock and surplus.

(d) An insurance company that is incorporated under the laws of a jurisdiction other than the United States or a state of the United States and authorized to write fire and allied lines of insurance in this state may not, unless the excess is reinsured by the company in another solvent insurer, expose itself to any loss or hazard on a single risk in an amount that exceeds the sum of:

(1) 10 percent of the company's deposit with the statutory officer in the state through which the company is authorized to do business in the United States; and

(2) 10 percent of the other policyholders' surplus of the company's United States branch.

(e) Subsections (c) and (d) do not apply in connection with the writing of insurance for cotton in bales or for grain.

(f) Reinsurance that is required or permitted by this section must comply with:

- (1) Subchapter A, Chapter 491; and
- (2) Chapter 493.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 2E.067, eff. April 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 594 (S.B. 1070), Sec. 3.09, eff. September 1, 2017.

Sec. 862.102. REINSURANCE OR RESERVES REQUIRED FOR FIRE INSURANCE. (a) An insurance company writing fire insurance in this state shall maintain reinsurance or unearned premium reserves on its policies in force.

(b) The commissioner may require that reserves required by Subsection (a) equal the unearned portions of the gross premiums in force after deducting reinsurance under Section 862.101, as computed on each respective risk from the policy's date of issue.

(c) If the commissioner does not impose a requirement under Subsection (b), the portions of the gross premium in force held as reinsurance or unearned premium reserves after deducting reinsurance under Section 862.101 shall be computed as follows:

<u>Term for Which Policy Was Written</u>	<u>Reserve for Unearned Premium</u>
1 year or less	1/2
2 years	1st year 3/4 2nd year 1/4
3 years	1st year 5/6 2nd year 1/2 3rd year 1/6
4 years	1st year 7/8 2nd year 5/8 3rd year 3/8 4th year 1/8
5 years	1st year 9/10 2nd year 7/10

3rd year 1/2
4th year 3/10
5th year 1/10
pro rata

More than 5 years

(d) Notwithstanding Subsection (c), an insurance company may compute, or the commissioner may require an insurance company to compute, the reserves on a quarterly, monthly, or more frequent pro rata basis.

(e) An insurance company that adopts a method for computing the reserve may not adopt another method without commissioner approval.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 862.103. REINSURANCE OR RESERVES REQUIRED FOR HOME WARRANTY INSURANCE COMPANIES. (a) An insurance company writing home warranty insurance in this state shall maintain reinsurance or unearned premium reserves on its policies in force.

(b) Reserves required by Subsection (a) shall be computed in the same manner and to the same extent as is fire insurance under Section [862.102](#).

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 862.104. RESERVES REQUIRED FOR OCEAN AND INLAND MARINE TRIP INSURANCE COMPANIES. The total of the premiums on ocean and inland marine trip insurance risks not terminated is considered to be unearned, and the insurance company shall maintain a reserve equal to the total of the premiums for those policies.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

SUBCHAPTER D. IMPAIRMENT OF SURPLUS

Sec. 862.151. REDUCTION OF CAPITAL STOCK AND PAR VALUE OF SHARES. (a) If the minimum surplus of a fire, marine, or inland marine insurance company is impaired in excess of the amount permitted under Subchapter B, Chapter [404](#), the commissioner may allow the company to amend its charter as provided by Sections [822.157](#) and [822.158](#) to reduce the amount of the company's capital

stock and the par value of its shares in proportion to the extent of the permitted amount of impairment.

(b) A company acting under Subsection (a):

(1) may not reduce the par value of its shares below the sum computed under Section [822.055](#);

(2) may not deduct from the assets and property on hand more than \$125,000;

(3) shall retain the remainder of the assets and property on hand as surplus assets;

(4) may not distribute any of the assets or property to the shareholders; and

(5) may not reduce the capital stock or surplus of the company to an amount less than the minimum capital and the minimum surplus required by Sections [822.202](#), [822.210](#), and [822.211](#), subject to Subchapter B, Chapter [404](#).

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. [2636](#)), Sec. 2E.068, eff. April 1, 2009.

Sec. 862.152. MAKING GOOD ON IMPAIRMENT. (a) This section applies to a fire, marine, or inland marine insurance company that receives notice from the commissioner under Subchapter B, Chapter [404](#), to make good within 60 days:

(1) any impairment of the company's required capital;
or

(2) the company's surplus.

(b) The company shall promptly call on its shareholders for an amount necessary to make the company's capital and surplus equal to the amount required by Sections [822.054](#) and [822.210](#), subject to Subchapter B, Chapter [404](#).

(c) The shareholders of the company shall be informed of a call under Subsection (b):

(1) by personal notice; or

(2) by advertisement for the time and in the manner approved by the commissioner.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 2E.069, eff. April 1, 2009.

Sec. 862.153. FAILURE OF SHAREHOLDER TO PAY. (a) If a shareholder of the insurance company who is given notice under Section 862.152 does not pay the amount called for by the company under that section, the company may:

(1) require the return of the original certificate of stock held by the shareholder; and

(2) issue a new certificate for a number of shares that the shareholder may be entitled to in the proportion that the value of the funds of the company, computed without inclusion of any money or other property paid by shareholders in response to the notice under Section 862.152, bears to the total amount of the original capital and the minimum surplus of the company required by Section 822.054 or 822.210, subject to Subchapter B, Chapter 404.

(b) The value of any shares for which new certificates are issued under Subsection (a)(2) shall be computed under the direction of the commissioner. The insurance company shall pay for the fractional parts of shares.

(c) Any interested person may pay all or any part of the amount of the deficit resulting from a shareholder default under Subsection (a). The company shall issue to each person who makes a payment a stock certificate that is representative of the number of shares to which the person is entitled. The certificate must be for the number of shares in proportion to the total number of forfeited shares that the payment made by the person bears to the deficit that resulted from the forfeited shares.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 2E.070, eff. April 1, 2009.

Sec. 862.154. CREATION AND DISPOSAL OF NEW STOCK. (a) A fire, marine, or inland marine insurance company that complies with Sections 822.155, 822.157, and 822.158 may:

- (1) create new stock;
- (2) dispose of the new stock according to applicable law; and
- (3) issue new certificates for the new stock.

(b) The insurance company shall sell any new stock created under Subsection (a) for an amount sufficient to make up any impairment of the company's required minimum capital and to make up the surplus of the company as required by Section [822.054](#) or [822.210](#), subject to Subchapter B, Chapter [404](#), but may not impair the capital of the company.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. [2636](#)), Sec. 2E.071, eff. April 1, 2009.