Chapter 748

1955 REPLACEMENT PART

(1963 reprint)

Title Insurance Companies

748.010 Requirements for company to engage in title insurance business
748.020 Filing annual statement; filing fee
748.030 Deposits for guaranty fund; effect of deficiencies in fund
748.040 Securities authorized as deposits
748.045 Termination of guarantee fund deposit
748.055 Title Insurance Unearned Premium Reserve Fund
748.060 Substitution of deposited securities; state as trustee; interest payments on deposited securities
748.070 Withholding license, fine or injunction for failure to comply with law; reinstatement
748.075 Procedure if insurer fails to satisfy judgment
748.084 Title plant
748.086 Filing schedule of rates and policy form
748.090 Application of chapter

CROSS REFERENCES

Administrative procedures governing state agencies, 183.310 to 183.510
Companies subject to General Insurance Law, 736.010
Political contributions, 260.280
State development credit corporations, Ch. 63
Trust deed, trustee of, 86.790

748.010

Classification of insurance for licensing, 736.060
Incorporation and management of domestic insurance companies, Ch. 738
Minimum capitalization of domestic stock companies, 738.050

748.020

Fees, 736.130

748.040

Securities guaranteed by mortgage insurance or mortgage participation certificates as deposits, 746.080

748.070

Actions for usurpation of office or franchise or to annul corporate existence, 30.510 to 30.640

748.010 Requirements for company to engage in title insurance business. Every domestic or foreign corporation organized either solely or among the other things for the purpose of insuring titles to real property in this state or of insuring against loss by reason of defective titles thereto, or encumbrances thereon, shall be subject to and shall comply with all the requirements of the laws of this state made applicable to insurance companies generally and the rules and regulations of the State Insurance Commissioner, excepting as hereinafter provided and in so far as said laws, rules or regulations may be inconsistent with the other provisions in this chapter contained. Before it shall be entitled to a certificate of authority to transact a title insurance business in any county in this state it shall comply with the following requirements:

(1) It shall have a paid up capital stock and shall make deposits with the State Treasurer to qualify for the county in which its principal office within the state is located in amounts as follows:

(a) In counties having a population of 200,000 or more, as evidenced by the last official census of the United States or of this state, the capital stock shall be not less than $100,000, of which it shall deposit with the State Treasurer $50,000.

(b) In counties having a population of not less than 100,000 nor more than 200,000, as evidenced by said census, the capital stock shall be not less than $60,000, of which it shall deposit with the State Treasurer $30,000.

(c) In counties having a population of not less than 50,000 nor more than 100,000, as evidenced by said census, the capital stock shall be not less than $40,000, of which it shall deposit with the State Treasurer $20,000.

(d) In counties having a population of 50,000 or less, as evidenced by said census, the capital stock shall be not less than $20,000, of which it shall deposit with the State Treasurer $10,000.

(2) To transact business in any county or counties other than that in which its principal office in the state is located it shall have capital stock and shall make deposits with the State Treasurer based upon the combined population of county in which it shall be authorized to transact a title insurance business, provided however that a title insurance company with a guarantee fund deposit of $100,000 or more may be authorized to transact business throughout the state upon compliance with the further requirements herein for each of such counties.
[Amended by 1955 c.465 §7]

748.020 Filing annual statement; filing fee. Every corporation shall, on or before March 1 of each year, furnish the State Insurance Commissioner a sworn statement showing all fees received by it, in the course of such of its business as is mentioned in ORS 748.010 and also showing that three percent of all gross premiums on title insurance policies and binders issued by it during the year ending on December 31 prior thereto has been set aside and is held by such insurer in an account known as "Title Insurance Unearned Premium Reserve Fund" as provided in this chapter. Such statement shall also show in such form as may be prescribed by the commissioner, all unpaid losses and claims upon title insurance policies of which the corporation has received due notice in writing from or on behalf of the insured or the guaranteed. This statement shall be verified by the president and secretary of such corporation and be under its corporate seal. With the filing of such statement, the corporation shall pay to the commissioner a filing fee of $5. The commissioner shall file such statement in his office and shall certify the amounts thereof to the State Treasurer.
[Amended by 1955 c.465 §8]

748.030 Deposits for guaranty fund; effect of deficiencies in fund. (1) Within 30 days after the filing of the annual statement, the corporation shall deposit with the State Treasurer 10 percent of all fees received by it and required to be reported as provided in ORS 748.020, until such accumulated fees, together with the amount deposited with the State Treasurer as provided in ORS 748.010, amounts to double the amount of the guaranty fund to be deposited with the State Treasurer by any corporation guaranteeing titles as provided in ORS 748.010.

(2) Such deposits shall be known as the guaranty fund of such corporation, and shall not be subject to other liabilities of the corporation to the extent of, and so long as there is, any outstanding liability on any such guaranty or insurance or certificate.

(3) When, on account of losses or otherwise, the amount of the guaranty fund of any such corporation falls below the amount required to be deposited by this section, no further guaranty or insurance or certificate

shall be issued by such corporation until the deficiency below the amount so required has been supplied.

748.040 Securities authorized as deposits. The deposits required to be kept with the State Treasurer as a guaranty fund as provided in ORS 748.010 and 748.030, and those made in lieu of accumulated fees, shall consist of one or more of the following classes of securities:

(1) Interest-bearing obligations of the United States, or of those for the payment of the principal of and interest on which the faith of the United States is pledged.

(2) Bonds of any state in the United States.

(3) Bonds of any municipality in the United States having a population of more than 50,000, or bonds of any municipality, municipal corporation or civil subdivision in this state having a population of more than 2,000, the market value of which bonds, at all times while so deposited, shall be not less than 90 percent of par value.

(4) Bonds or notes secured by first mortgage upon real property within this state not otherwise encumbered, and having a value of at least twice the amount loaned thereon.

(5) Money of the United States that is legal tender for public and private debts.

(6) To the amount of the surrender values thereof, bonds or other obligations of the United States registered in the name of "Treasurer of the State of Oregon in trust for the holders of the obligations of the _____ (depositing company) pursuant to ORS chapter 748 and Acts supplemental thereto."

(7) A deposit not in excess of $10,000 in any one issuing institution, in investment certificates or share accounts of savings and loan associations organized and existing under and by virtue of the laws of this state, or of the United States, and holding membership in the Federal Home Loan Bank System. The certificates and share accounts shall be free of offsetting debts and claims and shall be issued in the name of the State Treasurer in the form indicated in subsection (6) of this section.

(8) A deposit not in excess of $10,000 in any one savings bank organized and existing under the laws of this state in a deposit account free of offsetting debts and claims insured in full by the Federal Deposit Insurance Corporation and entered in the name of the State Treasurer in the form indicated in subsection (6) of this section.

(9) Notes or bonds secured by mortgage or deed of trust, payment of which is guaranteed by a policy of mortgage insurance, or of mortgage participation certificates, issued by a mortgage insurance company in accordance with ORS chapter 746.

[Amended by 1955 c.465 §9]

748.045 Termination of guarantee fund deposit. A guarantee fund deposit shall be terminated only upon the existence of either of the following conditions:

(1) Upon termination of all liabilities of the insurer under all policies of title insurance issued or assumed by it.

(2) Upon reinsurance of all such liabilities of the insurer, with the commissioner's approval, in another insurer holding a certificate of authority as a title insurer in this state.

[1955 c.465 §4]

748.050 [Repealed by 1955 c.465 §12]

748.055 Title Insurance Unearned Premium Reserve Fund. (1) Every title insurance company, either foreign or domestic, operating in this state under the provisions of this chapter, shall annually set apart, establish, segregate and maintain at the end of each year into an account to be known as Title Insurance Unearned Premium Reserve Fund, a sum equal to three percent of its gross premiums on title insurance policies issued during the year then ending. Such reserve fund shall be in addition to the deposit with the State Treasurer. There shall be no other reserve requirements. Such reserve must be maintained separately and apart from the capital of the company, and shall be invested in such securities as are authorized for investment by domestic insurance companies under the laws of this state. Funds accumulated under this provision shall never be used for the payment of any obligation other than those incurred in connection with title insurance, and, in the event of the insolvency of a company, the fund hereby provided shall be used to pay losses and to purchase reinsurance to protect title insurance policyholders even though there be no accrued title insurance claims. Said reserve fund shall be deemed, considered and shall constitute unearned portions of the original premiums and shall be charged as a reserve liability of such company in determining its financial condition.

(2) Such reserve funds shall be maintained in the treasury of such insurer as additional security to holders of title insurance policies issued by such insurer. When, on account of losses or otherwise, the amount of said reserve fund of any such insurer shall be less than the amount required by this chapter no further insurance policies shall be issued by such insurer until the deficiency below the amount so required is restored. The net income and profits derived from such fund shall be transferred to the general assets of the company. The company shall also at all times keep a separate record of the cash and securities of such reserve fund, giving complete identification of the assets belonging to such fund and showing full particulars as to withdrawals and additions. After July 1, 1957, for corporations heretofore qualified, and after the expiration of 180 months from the date of beginning business for any corporation hereafter qualified, that portion of said unearned premium reserve fund established more than 180 months prior shall be released and shall no longer constitute a part of said unearned premium reserve fund and may be used for any corporate purpose.
[1955 c.465 §6]

748.060 Substitution of deposited securities; state as trustee; interest payments on deposited securities. (1) The deposits made pursuant to this chapter shall be safely kept for the benefit and security of persons transacting title insurance business with the corporation, for claims and demands arising out of such business, and shall be held and considered especially pledged as security for such claims and demands.

(2) A corporation may change the character of its deposit at any time by depositing other securities of the kinds and descriptions authorized to be deposited by ORS 748.040. However, the deposit or change in deposit shall be subject to the approval of the commissioner.

(3) All interest accruing from the United States, or otherwise, on such securities shall be paid, as it accrues, to the corporation to which the securities belong.

(4) The State of Oregon shall be held responsible for the safety of all deposits made under the provisions of this chapter.

748.070 Withholding license, fine or injunction for failure to comply with law; reinstatement. (1) No license to conduct a title insurance business in any county shall be issued or continued in force hereunder unless the requirements of this chapter have been complied with except that such a license to do business in one or more counties may be revoked without affecting the right of such corporation to do business in other counties.

(2) Any corporation continuing to do such business in any such county while in default under this chapter shall be liable to a fine of $100 for each day of such default. Such fine may be recovered by an action to be instituted by the Attorney General in the name of the state. The corporation may be enjoined from doing such business in any such county until payment of the fine is fully made and notice thereof given to the commissioner.

(3) Upon payment of such fine to the State Treasurer, giving of notice to the commissioner and on full compliance in all other respects with the laws of this state, such corporation may be permitted by the State Insurance Commissioner to resume such of its business as was suspended.
[Amended by 1955 c.465 §10]

748.075 Procedure if insurer fails to satisfy judgment. If an insurer fails to satisfy any judgment against it arising out of its liability under any title insurance policy issued, insured, or assumed by it, within 30 days after the finality of the judgment becomes fixed, the judgment may be enforced against the insurer's guarantee fund deposit through the following procedure:

(1) The judgment creditor shall petition the court wherein the judgment is entered and as part of the same cause, setting forth the facts regarding the insurer's failure to satisfy the judgment as required by this section.

(2) Upon such petition the court shall direct issuance of a special execution directed to the sheriff of Marion County, requiring that the sheriff sell so much of the securities on deposit as may be required to satisfy the judgment and pay the costs of the levy.

(3) The special execution shall be executed by the sheriff by delivering to the State Treasurer and to the State Insurance Commissioner each a certified copy of said writ of execution together with a certified copy of the judgment and of said petition and order and by also delivering to the State Treasurer a notice directing that sufficient of such securities shall be delivered to the sheriff to satisfy the judgment in full.

(4) Within 10 days after the receipt of the notice, the State Treasurer shall deliver

to the sheriff sufficient securities to satisfy the judgment in full, and the same shall be sold by the sheriff upon execution as in the case of sales of personal property upon execution generally.
[1955 c.465 §3]

748.080 [Repealed by 1955 c.465 §12]

748.084 Title plant. In addition to the capital and deposit requirements herein set forth it shall own and maintain in the county in which its principal office in the state is located a title plant consisting of a general index, adequate maps, and currently posted tract or geographic indexes for all the lands in such county. It shall also directly or through its agent own and maintain for each additional county in which it shall be authorized to transact a title insurance business a comparable title plant or obtain from a person having a comparable title plant for said additional county or counties a certificate showing the status of the title.
[1955 c.465 §2]

748.086 Filing schedule of rates and policy form. Every title insurance corporation shall file with the State Insurance Commissioner its schedule of rates and its policy forms. No such company shall in connection with the writing or issuance of any policy of title insurance deviate from such rate schedule or policy forms as filed, either by making any reduction or increase in rates or altering its policy form unless it had previously filed such new rate or policy form, or by discriminating in favor of or against its insured. No commissions, rebates or discounts shall be paid, allowed or permitted to any person having an interest in or lien upon real property which is the subject of title insurance involved, or to any person acting for or on behalf of such person.
[1955 c.465 §5]

748.090 Application of chapter. This chapter relates only to persons who insure titles to real property.
[Amended by 1955 c.465 §11]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on October 15, 1955.

Sam R. Haley
Legislative Counsel