**Section 202.30 Restrictions on the Transaction of Business**

a) A company shall not transact the business of mortgage guaranty insurance unless it originally has and continues to have capital and surplus of at least the amounts specified in Section 13 of the Illinois Insurance Code.

b) A mortgage guaranty insurance company:

1) Shall not insure loans with balloon provisions unless either:

A) liability for the balloon payment is specifically excluded; or

B) the policy provides, by its terms, that at the time the lender calls the loan, the lender will cause to be offered new or extended financing at then market rates.

2) Shall not, at any one time, have more than 20% of its insurance in force net of reinsurance ceded but including reinsurance assumed, on adjustable rate loan instruments which establish payments insufficient to fully amortize the loan over its term and negatively amortizing graduated payment mortgage which, at any time during the term of mortgage, causes the outstanding indebtedness to exceed 100% of the initial fair market value of the real estate, thereby causing the outstanding loan balance to increase following loan origination (vis, "dual rate" mortgages).

3) Shall not insure mortgages referred to in subsection(b)(2) above which:

A) Permit the accumulation of negative amortization of principal to an amount exceeding 120% of the initial fair market value, or

B) Provide for the borrower to make payment in an amount less than would be required for the full amortization of the mortgage at an interest rate of 10%, or

C) Were established under agreements which authorize the lender to bind coverage on the insurer's behalf without prior underwriting by the insurer.

4) Shall not, at any one time following two years from receipt of its initial Certificate of Authority from its state of domicile, have more than 10% of its insurance in force, net of reinsurance ceded but including reinsurance assumed, on loans originating from any one lender.

5) Which writes residential mortgage guaranty insurance shall not, either directly or indirectly, have at any time more than 20% of its insurance in force on commercial properties.

6) Shall not assume reinsurance in an amount exceeding 20% of the company's total insurance in force.

7) Shall maintain a policyholders reserve in an amount no less than the amount arrived at by the calculations set forth in this subsection (b)(7) and if its policyholders reserve is less than that amount it shall discontinue all writing of business until its policyholders reserve equals or exceeds the minimum amount required in this subsection (b)(7). The required policyholders reserve shall be calculated in the following manner:

A) subject to the provisions of subsections (b)(7)(B), (C), (D), (E), (F), and (G) of this Section, if the indebtedness is:

i) 75% or greater of the value of the securing property:

|  |  |
| --- | --- |
| Per Cent  Coverage | Policyholders Reserve Per $100 of the Face Amount of The Mortgage |
| 5% | $ .20 |
| 10 | .40 |
| 15 | .60 |
| 20 | .80 |
| 25 | 1.00 |
| 30 | 1.10 |
| 35 | 1.20 |
| 40 | 1.30 |
| 45 | 1.35 |
| 50 | 1.40 |
| 55 | 1.50 |
| 60 | 1.55 |
| 65 | 1.60 |
| 70 | 1.65 |
| 75 | 1.75 |
| 80 | 1.80 |
| 85 | 1.85 |
| 90 | 1.90 |
| 95 | 1.95 |
| 100 | 2.00 |

ii) 50% or greater but less than 75% of the value of the securing property, the required amount of the policyholders reserve shall be 50% of the amount required by subsection (b)(7)(A)(i) above; and

iii) less than 50% of the value of the securing property, the required amount of the policyholders reserve shall be 25% of the amount required by subsection (b)(7)(A)(i) above.

B) In the case of mortgage pool insurance:

i) If the total aggregate indebtedness of the group of loans covered is 75% or greater of the total aggregate value of the securing properties after giving appropriate credit for any primary mortgage guaranty insurance thereon and/or deductibles:

|  |  |
| --- | --- |
| Per Cent Coverage | Policyholders Reserve Per $100 of the Face Amount of The Mortgage |
| 1% | $ .60 |
| 5 | 1.00 |
| 10 | 1.20 |
| 15 | 1.30 |
| 20 | 1.40 |
| 25 | 1.50 |
| 30 | 1.55 |
| 40 | 1.60 |
| 50 | 1.65 |
| 60 | 1.70 |
| 70 | 1.75 |
| 75 | 1.80 |
| 80 | 1.85 |
| 90 | 1.90 |
| 100 | 2.00 |

ii) If the total aggregate indebtedness of the group of loans covered is 50% or greater but less than 75% of the total aggregate value of the securing properties after giving appropriate credit for any primary mortgage guaranty insurance thereon and/or deductibles, the required amount of policyholders reserve shall be 50% of the amount required by subsection (b)(7)(B)(i) above; and

iii) If the total aggregate indebtedness of the group of loans covered is 50% of the total aggregate value of the securing properties after giving appropriate credit for any primary mortgage guaranty insurance and/or deductibles, the required amount of policyholders reserve shall be 25% of the amount required by subsection (b)(7)(B)(i) above.

C) In the case of:

i) mortgage guaranty insurance covering loans secured by liens other than first liens, the policyholders reserve shall be calculated in accordance with subsection (b)(7)(A) above after first dividing the insured portion of the junior loan by the entire loan indebtedness on the securing property to determine the percentage coverage and then dividing the total of all loans on the securing property to determine the percentage of loan-to-value ratio; and

ii) mortgage pool insurance on a group of loans secured by liens other than first liens, the policyholders reserve shall be calculated in accordance with subsection (b)(7)(B) above after the percentage of coverage and loan-to-value ratios have been determined.

D) In the case of mortgage guaranty insurance covering all of the risk in excess of a fixed percentage of the initial fair market value of the real estate, the required amount of policyholders reserve shall be 125% of the amount required under subsection (b)(7)(A)(i).

E) In the case of mortgage guaranty insurance covering loan installments referenced in subsection(b)(2) above, the required amount of policyholders reserves shall be 150% of the amount required under subsection (b)(7)(A). In the case of such mortgage also meeting conditions under subsection (b)(7)(D) above, the required reserve shall be 175% of the amount required under subsection (b)(7)(A)(i).

F) In the case of mortgage guaranty insurance which specifically covers leasehold obligations, the policyholders reserve shall be $4.00 for each $100 of leasehold rentals insured.

G) If a policy of mortgage guaranty insurance or of mortgage pool insurance provides for layers of coverage, deductibles or reinsurance, the required amount of policyholders reserves shall be computed by subtraction of the required policyholders reserve for the lower percentage coverage limit from the required policyholders reserve for the upper or greater coverage limit.

H) All calculations done under subsection (b)(7) shall be done in a uniform and consistent fashion to assure that the policyholders reserve so established and maintained bears a reasonable relationship to the risk undertaken by the company.

8) Shall, in connection with the writing of mortgage guaranty insurance, individually underwrite all loans insured.

9) Which anywhere transacts, directly or indirectly, any class of insurance other than mortgage guaranty insurance and/or mortgage pool insurance shall not be permitted to transact any insurance business in the State of Illinois.

10) Shall not declare any dividends except from undivided profits remaining on hand over and above the amount of its policyholders reserve.

11) Shall adopt, print and make available a schedule of premium charges for mortgage guaranty insurance policies which schedule shall show the entire amount of premium charge for each type of mortgage guaranty insurance policy issued by the company.

12) Shall not pay to any person who is acting as agent, representative, attorney or employee of the owner, mortgage of the prospective owner, or mortgagee of real property or any interest therein, either directly or indirectly, any commission, or any part of its premium charges or any other consideration as an inducement for or as compensation on any mortgage guaranty insurance policy.

13) Rebates

No mortgage guaranty company shall make any rebate of any portion of the premium charge shown by the schedule required by subsection (b)(11). No mortgage guaranty company shall quote any premium charge to any person which is less than that currently available to others for the same type of mortgage guaranty insurance policy. The amount by which any premium charge is less than that called for by the current schedule of premium charge is an unlawful rebate.

c) Whenever a mortgage guaranty company provides coverage exceeding 30% of the mortgage indebtedness at the time foreclosure proceedings are completed and title to the authorized real estate security is vested in such assured, unless the coverage provides that the lender be a not less than 5% co-insurer of losses, no mortgage guaranty insurer shall permit an insured to bind coverage on its behalf and shall not assume contracts of insurance without first individually underwriting each mortgage loan insured.

d) A mortgage guaranty insurance company:

1) Must not have a total liability, net of reinsurance, of mortgage pool insurance on mortgages from any one originating lender which exceeds 10% of the mortgage guaranty insurance company's surplus, including contingency reserve.

2) Shall not permit substitutions in a pool of mortgages and shall not permit additions to a pool of mortgages after 3 years following the issuance of a policy providing mortgage pool insurance.

e) An insurance company with multiple line authority that transacts insurance business other than mortgage insurance and/or mortgage pool insurance is prohibited, either directly or indirectly, from transacting mortgage insurance and/or mortgage pool insurance in the State of Illinois.

(Source: Amended at 24 Ill. Reg. 14738, effective September 25, 2000)