

LAW OF UKRAINE ON INSURANCE

This Law regulates relations in the field of insurance and is focused on establishing the actuarial services market, enhancement of insurance protection of property rights of enterprises, institutions, organisations and citizens.

This Law is not valid for state social insurance.

CHAPTER I GENERAL PROVISIONS Article 1. Determination of Insurance

Insurance is a type of civilian legal relations concerning the protection of property rights of citizens and legal entities in case of emergence of certain events (insured accidents). They are determined by the insurance contract or legislation and financed from cash funds formed of insurance payments made by citizens and legal entities (insurance fees, insurance premiums).

Article 2. Insurers

In accordance with the Law of Ukraine On the Economic Companies insurers are legal entities, established in the form of a stock company, full, comandit company or a company with additional liability, the account being taken of specific features, envisaged by this Law; which have also obtained in due order a licence for insurance activity. The insurer should consist of not less than three participants. The insurance activity in Ukraine shall be provided exclusively by the residents of Ukraine.

In particular cases, determined by the legislation of Ukraine, the state institutions, established and operating in accordance with this Law, shall be recognised as insurers.

Total participation of foreign legal entities and foreign citizens in the insurer's authorised fund shall not exceed 49 per cent, except as otherwise provided for by article 43 of this Law.

Total amount of insurer's contribution to the authorised funds of other insurers of Ukraine shall not exceed 20 per cent of its own authorised fund. The amount of contribution to the authorised fund of other insurer shall not exceed 5 per cent.

The share of cash deposits in the paid-up authorised fund of the insurer shall not be less than 60 per cent. It is allowed to pay a cash part of a deposit to the authorised fund of the insurer in securities. Securities shall be issued by the government at their nominal value in order, determined by the Ministry of Finance of Ukraine, but not more than 25 per cent of the total amount of the authorised fund.

In forming an authorised fund it is prohibited to use the insurance reserve funds, as well as funds obtained as a credit or collateral, or to contribute non-tangible assets.

The object of direct insurer's activity may include only insurance, reinsurance and financial activity connected with formation, distribution of insurance reserves and their management.

The above mentioned types of activity are allowed in the form of granting services to other insurers on the basis of the concluded agreements about joint activity.

Legal entities which do not meet the requirements of this article can not be engaged in insurance activity.

Article 3. Insurants

Insurants are legal entities and able citizens who have concluded insurance contracts with

insurers or are insureds in accordance with the legislation of Ukraine.

Insureds may conclude contracts with insurers about insuring third persons (the insured persons), which may obtain the rights and liabilities of the insured according to the contract of insurance.

Insureds, when concluding contracts of insurance, are entitled to appoint citizens or legal entities for obtaining insurance sums (insurance indemnity) and also replace them prior to the insured incident..

Article 4. Objects and Types of Insurance

Objects of insurance may be property rights, which are in compliance with the legislation of Ukraine and relate to:

life, health, ability to work and additional pension of insured or insured person (personal insurance);
ownership, utilisation and management of property (property insurance);
compensation by insured of damage caused to a person or his property as well as damage caused to a legal entity (liability insurance).

Specific types of insurance, for which the appropriate licence is granted, shall be determined on the basis of rules (conditions) of insurance (insurance products) established by the insurer.

Insurers are entitled to deal only with those types of insurance as determined in a licence.

Article 5. Forms of Insurance

Insurance may be voluntary or compulsory.

Voluntary insurance shall be effected on the basis of a contract between insured and insurer.

General conditions and order of voluntary insurance shall be determined by the rules of insurance established by insurer independently in accordance with the requirements of this Law.

Specific terms of insurance shall be determined when concluding a contract of insurance.

Voluntary insurance provided by a certain insurer can not be the obligatory condition in other legal relations.

Compulsory insurance shall be established by the laws of Ukraine through proposing amendments in the existing Law.

Forms of a typical contract, order and specific licensing conditions of obligatory insurance shall be determined by the Cabinet of Ministers of Ukraine.

Article 6. Types of Compulsory Insurance

The following types of compulsory insurance are in existence in Ukraine:

- 1) medical insurance;
- 2) the state personal insurance of servicemen, reservists called to military service;
- 3) the state personal insurance of rank and file persons, command and hired volunteers personnel and staff of subdivisions of internal affairs.;
- 4) the state compulsory personal insurance of medical and pharmaceutical employees in the event of AIDS acquisition by a person when performing official duties;
- 5) the state compulsory personal insurance of customs employees;

- 6) the state compulsory personal insurance of the procurator s office employees;
- 7) the state life and health insurance of people s deputies;
- 8) the state personal insurance of officials of the state control and revision service of Ukraine;
- 9) the state personal insurance of officials of state tax inspectorates;
- 10) the state compulsory insurance of officials of the state offices on protection of consumer s rights;
- 11) personal insurance of the departmental and rural fire protection employees and members of voluntary fire brigades (commands);
- 12) state insurance of officials of the state architectural and construction control inspections;
- 13) state insurance of high category sportsmen;
- 14) state insurance of the state forest protection employees;
- 15) life and health protection of the specialists in veterinary medicine;
- 16) life and health protection of judges;
- 17) state insurance of donors of blood and (or) its components;
- 18) personal insurance against transport accidents;
- 19) insurance of the crew of an aircraft and aviation personnel;
- 20) insurance of the employees of a customer of aviation works, persons engaged in supporting the technological process when executing aviation works, and passengers being transported upon its request without obtaining tickets;
- 21) accident insurance of risk professions in national economy;
- 22) liability insurance of aircarrier and performer of air works for compensation of damages caused to passengers, luggage, mail, cargo;
- 23) liability insurance of the exploitor of an aircraft for damages which may be caused by him when performing aviation works;
- 24) insurance of civilian responsibility of vehicle owners;
- 25) insurance of aviation vessels;
- 26) compulsory insurance of yield of crops and perennial plantations in the state farms and other state agricultural enterprises.

Article 7. Insurance Risk and Insured Accident

Insurance risk is a certain event against which insurance is provided and which bears features of possibility and casualty of emergence.

Insured accident is an event, provided for by an insurance contract or legislation, which has happened and the emergence of which gives rise to insurer s obligation to effect insurance payment (insurance indemnity) to insurant, insured or other third person.

Article 8. Insurance Sum, Insurance Indemnity and Franchise

Insurance sum is an amount of money, within which insurer, in accordance with the terms of insurance, should effect payment in case of emergence of the insured accident, as well as a sum to be paid for personal insurance.

Payments of insurance sums under contracts of personal insurance shall be made beyond the sum to be obtained by the receiver under the state social insurance, social support, and the sum to be paid to him as a compensation for losses.

When insuring property, the insurance sum shall be established within the limits of property value, according to prices and tariffs existing at the moment of conclusion of a contract, unless otherwise provided by the insurance contract or conditions of compulsory insurance.

Insurance indemnity is an amount of money to be paid by insurer under the terms of property insurance and liability insurance in case of the emergence of an insured accident.

Insurance indemnity shall not exceed the amount of direct loss born by the insurant. Indirect

losses are considered insured if it is provided for by the insurance contract. In cases where the insurance sum constitutes a certain share of value of the insured object, insurance indemnity shall be paid in the same proportion for the established losses caused by insured accident, unless otherwise provided by the terms of insurance.

Franchise is a portion of losses which is not indemnified by the insurer under an insurance contract.

If property is insured by several insurers and total insurance sum exceeds the actual value of property, insurance indemnity, paid by all insurers, shall not exceed the actual value of property.

Article 9. Insurance Payment, Insurance Tariff

Insurance payment (insurance contribution, insurance premium) is a payment for insurance to be effected by insurant to insurer under an insurance contract.

Insurance tariff is a rate of insurance premium from a unit of insurance sum for a determined insurance period.

Insurance tariffs for voluntary form of insurance shall be calculated by the insurer actuarially (mathematically) on the basis of the appropriate statistics on the emergence of insured accidents. The actual amount of insurance tariff shall be fixed in the insurance contract upon the consent of the parties.

Actuarial payments may be carried out by persons having the appropriate qualifications according to the requirements established by the Committee on Supervision Over Insurance Activity, which is confirmed by the appropriate certificate.

In regulating insurance, the Cabinet of Ministers of Ukraine establishes the maximum insurance tariffs or methods of their calculation and the minimal insurance sums.

Article 10. Co-Insurance

An object of Insurance may be insured under one insurance contract and, upon consent of insurant, by several insurers (co-insurance). The contract should also contain conditions determining the rights and obligations of each insurer.

If the appropriate agreement between insurer and insurant is available, one of the insurers may represent all other insurers in the relationship with the insurant being responsible before him only in the amount of his own share.

Article 11. Reinsurance

Reinsurance is insurance by one insurer (cedent, reinsurant) according to the risk conditions determined in the contract by fulfilling all or part of his obligations before the insurant by another insurer (reinsurant).

Insurer (cedent, reinsurant) should notify reinsurer of all modifications in his contract with insurant.

Insurer (cedent, reinsurer), which concluded a reinsurance contract with reinsurer, remains fully responsible before insurant according to the insurance contract.

Article 12. Associations of Insurers

Insurers may establish unions, associations and other corporations to co-ordinate their activity, protect the interests of their members and implement joint programmes, if their creation does not contradict with the legislation of Ukraine. These associations can not be engaged in insurance activity.

Associations of insurers shall act on the basis of charters and acquire the rights of a legal entity after their state registration. A body, registering the associations of insurers, shall notify of it to the Committee on Supervision Over Insurance Activity within a ten-day term from the date of registration.

Insurers, which are authorised to insure the responsibility of vehicle owners for damage caused to third persons, and on conditions envisaged by international agreements to which Ukraine is a party, should establish a Motor (transport) Insurance Bureau as a legal entity, financed from the insurer's funds.

Article 13. Societies of Mutual Insurance

Citizens and legal entities, with a purpose of insurance protection of their property rights, may set up societies of mutual insurance, in order and on conditions determined by the legislation of Ukraine.

Article 14. Insurance Agents and Insurance Brokers

Insurers may carry out insurance activity through their insurance mediators (insurance agents and insurance brokers).

Insurance agents are citizens or legal entities, which act on behalf and by order of an insurer, and perform a part of his insurance activity (concluding insurance contracts, obtaining insurance payments, executing works connected with payments of insurance sums and insurance premiums). Insurance agents are the representatives of the insurer and act in his favour for an agent's commission on a basis of the contract with insurer.

Insurance brokers are citizens or legal entities, which are registered in due order as the agents of economic activity, and carry out the intermediary activity at the insurance market on behalf of themselves relying upon the instructions of insurant or insurer.

Intermediary activity of insurance agents or insurance brokers in favour of foreign insurers on the territory of Ukraine shall not be allowed, unless otherwise provided for by international agreements to which Ukraine is a party.

CHAPTER II INSURANCE CONTRACT Article 15. Insurance contract

Insurance contract is a written agreement between insurant and insurer, according to which insurer undertakes obligations, in case of the emergence of insured accident, to pay an insurance sum or compensate for loss, within the insurance sum limits, to insurant or other person, determined by insurant, or in favour of whom the insurance contract has been concluded (to render assistance, provide a service etc.), and insurant undertakes to cover insurance payments within the determined period and observe other terms of a contract.

Insurance contracts shall be concluded in accordance with the rules of insurance.

Insurance contract should contain:

- name of the document;
- name and address of insurer;
 - last name, name, middle name or name of insurant and his address;
- indication of insurance object;
 - amount of insurance sum;
 - list of insured accidents;
 - calculation of the amount of tariff, amount of insurance premiums and terms of their payment;
- contract validity;
- procedure of amending and terminating validity of contract;

rights and obligations of the parties and responsibility for incompleteness or inappropriate fulfilment of the conditions of contract;
other conditions upon consent of the parties;
signatures by the parties.

The Committee on Supervision Over Insurance Activity is entitled to establish additional requirements to life assurance contracts and contracts of insurance of the citizens' property.

Article 16. Rules of Insurance

Rules of insurance shall be developed by insurer separately for each type of insurance and are subject to approval by the Committee on Supervision Over Insurance Activity when issuing a licence entitling it to carry out the appropriate type of insurance.

Rules of insurance should contain:

- list of insurance projects;
- procedure of calculating insurance sums;
- insurance risks;
- exceptions from insured accidents and restrictions of insurance;
- term of validity and place of insurance contract;
- procedure of concluding insurance contracts;
- rights and obligations of the parties;
- insured's actions in case of the emergence of insured accident;
- list of documents confirming the emergence of insured accident and the amount of loss;
- procedure and conditions of insurance payments;
- period for making a decision on whether to pay or refuse to pay insurance sums and insurance premium;
- conditions for termination of insurance contract;
- dispute settlement procedure;
- insurance tariffs;
- special conditions.

The Committee on Supervision Over Insurance Activity is entitled to refuse to issue a licence if the proposed insurance rules contradict with the existing legislation and do not meet the requirements of this article.

In case where amendments are introduced in the insurance rules, insurer should submit these amendments to the Committee on Supervision Over Insurance Activity for adjustment.

Article 17. Conclusion and Coming into Force of Insurance Contract

In order to conclude an insurance contract, insured shall give to insurer a written application in a form established by insurer, or in a different way declare his intention to conclude an insurance contract. When concluding an insurance contract, insurer has the right to request from insured a balance or information on the financial position, confirmed by an auditor (auditor firm).

The fact of conclusion of insurance contract may be certified by the insurance certificate (policy, certificate), which is a form of insurance contract.

Insurance contract shall come into force as of the moment when the first insurance payment has been made, unless otherwise provided by the insurance contract.

Article 18. Currency of Insurance

Insureds, according to the signed contracts of insurance, shall be entitled to execute payments

only in the Ukrainian currency, and an insurant non-resident - in hard currency or currency of Ukraine in cases envisaged by the legislation of Ukraine.

If the validity of insurance contract extends on the foreign territory, in accordance with the signed contracts with foreign partners, the order of currency payments shall be regulated in accordance with the requirements of the legislation of Ukraine on currency regulation.

Insurance sum (insurance premium) shall be paid in the same currency as envisaged in the insurance contract, unless otherwise provided for by the legislation of Ukraine.

Article 18. Obligations of Insurer

Insurer shall undertake :

- 1) to acquaint an insurant with the terms and rules of insurance;
- 2) within two working days, as soon as it is known about the emergence of insured accident, to take measures on drawing up all necessary documents for a timely payment of insurance sum or insurance premium to the insurant;
- 3) in case of the emergence of insured accident, to execute payment of insurance sum or insurance premium within a period envisaged by a contract. Insurer bears property accountability for a non-timely payment of an insurance sum (insurance premium) through paying to insurant a penalty (fine), the amount of which shall be determined by the terms of insurance contract.;
- 4) to reimburse for expenses, born by insurant in case of the emergence of insured accident, on preventing or lessening the losses, if it is envisaged by the terms of insurance contract;
- 5) upon insurant s notice, in case of his implementation of measures, which has lessened the insurance risk, or increase in the value of property, to re-conclude an insurance contract with him;
- 6) to keep in secret the data about insurant and his property status, except the cases, provided for by the legislation of Ukraine.

The terms of insurance contract may provide for other obligations of insurer.

Article 18. Obligations of Insurant

Obligation shall undertake:

- 1) to execute timely insurance payments;
- 2) when concluding a contract of insurance, to provide insurer with information about all circumstances, that he is aware of, which may have importance for valuation of insurance risk, and further inform him about the changes in the insurance risk;
- 3) to notify insurer of other existing insurance contracts concerning this insurance project;
- 4) to take measures for preventing and lessening the losses, caused by the emergence of insured accident;
- 5) to notify insurer of the emergence of insured accident in time, foreseen by the terms of insurance contract.

The terms of insurance contract may provide for other obligations of insurant.

Article 21. Replacement of Insurant-Citizen in Insurance Contract

In the event of death of an insurant-citizen, which has concluded the property insurance contract, the rights and obligations of insurant shall be transferred to the persons, which inherited his property.

Insurer or any of his heirs have the right to re-conclude insurance contract.

In other cases the rights and obligations of insurant may be transferred to the other citizen or legal entity only upon consent of insurer, unless otherwise provided for by insurance contract.

In case of death of the insurant, which has concluded a private insurance contract in favour of third persons, his rights and obligations may be transferred to these persons, as well as to persons, which, in accordance with the legislation, are binded with an obligation on protection of rights and legal interests of the insured.

Article 22. Consequences of Insurant s Forfeit of the Rights of Legal Entity

If, during the implementation period of insurance contract, insurant forfeits the right of legal entity as a result of reorganisation, rights and obligations arising from insurance contract shall be transferred to a successor of insurant upon consent of insurer.

Article 23. Consequences of Insurant-Citizen s Forfeit of the Legal Capacity

In case where the court has recognised the insurant-citizen not competent, his rights and obligations under insurance contract shall be transferred to his trustee and the validity of contract on civilian responsibility insurance shall be terminated from the moment of the forfeit of his legal capacity.

In case where the court has recognised the insurant-citizen as a person with limited legal capacity, he shall exercise his rights and obligations as the insurant under the insurer s contract only upon the trustee's consent.

Article 24. Procedure and Conditions of Payment of Insurance Sums and Insurance Premium

Payment of insurance sums and insurance premium shall be executed by insurer, according to insurance contract or the legislation, on a basis of the insurant s claim (his successor or third persons, determined by the terms of insurance) and insurance act (average certificate), which shall be made up by insurer or a person, authorised by him (average commissioner) in a form, determined by insurer.

Average commissioners are persons engaged in determining the reasons of the emergence of insured accident and the amount of loss, for which the qualification requirements shall be established by the legislation of Ukraine.

If necessary, insurer may request the data, connected with insured accident, from the law enforcement bodies, banks, medical institutions and other enterprises, institutions and organisations, possessing information on the circumstances of insured accident, as well as may independently clarify the reasons and circumstances of insured accident.

Enterprises, institutions and organisations should refer an answer to insurers upon the request on the data, connected with insured accident, including the data, which is a commercial secret. The insurer, in this case, is responsible for its disclosure in any form, except the cases, foreseen by the legislation of Ukraine.

Article 25. Refusal to Pay Insurance Sums (Insurance Indemnity)

The grounds for insurer s refusal to pay insurance sums (insurance indemnity) shall be:

- 1) deliberate actions of insurant or a person, in favour of whom a contract of insurance has been concluded, aimed at the emergence of insured accident. The above mentioned norm shall not cover the actions, connected with the fulfilment of civil or official duties by them, in terms of necessary defence (without going beyond its limits) or protection of life, health, dignity, pride and business record. The actions of insurant or a person, in favour of whom a contract of insurance has been concluded, shall be qualified in accordance with the legislation of Ukraine;
- 2) commitment of intentional crime, which has lead to insured accident, by the insurant-citizen or other person, in favour of whom a contract of insurance was concluded;
- 3) the deliberate presentation of false evidence about the insurance project by insurant;

- 4) full compensation for insurant's loss under property insurance, received from a person guilty of causing this loss;
- 5) non-timely notification by insurant of the emergence of insured accident without valid reasons or creation of obstacles for insurer when determining the circumstances, nature and amount of loss;
- 6) other cases envisaged by the legislation of Ukraine.

The terms of insurance contract may provide for other grounds for a refusal to pay insurance sums, if it does not contradict the legislation of Ukraine.

A decision about the refusal to pay insurance sums shall be accepted by insurer within a period, not more than that foreseen by the rules of insurance. Insurant shall be notified of it in a written form, the grounds of refusal being given.

Insurer's refusal to pay insurance sums may be appealed by insurant in the court.

Article 26. Transfer of Insurant's Rights to Insurer with Regard to a Person Responsible for Inflicted Losses

A right to claim, which insurant or other person, obtaining insurance indemnity, has in relation to a person, responsible for inflicted loss, shall be transferred to insurer, which has paid insurance indemnity within actual expenses under property insurance contract.

Article 27. Termination of Insurance Contract.

Insurance contract shall be terminated upon agreement of the parties and also in case of :

- 1) termination of validity;
- 2) fulfilment of obligations by insurer before insurant in full volume;
- 3) insurant's failure to pay insurance sums within a period stipulated by the contract. The contract shall not be considered terminated in advance, if the first (or the next) insurance payment was not made upon a written request of insurer, within ten working days from the date of the presentation of such claim to insurant, unless otherwise provided for by the terms of contract;
- 4) liquidation of insurant-legal person or a death of insurant-citizen or his forfeit of legal capacity, excluding cases, foreseen by articles 21,22 and 23 of this Law;
- 5) liquidation of insurer in order, established by the legislation of Ukraine;
- 6) adoption of the court decision about recognition of a contract as null and void;
- 7) in other cases, provided by the legislation of Ukraine.

The validity of a contract may be terminated in advance upon the request of insurant or insurer, if it is foreseen by the terms of insurance contract.

Any party should notify the other of its intention to terminate the validity of insurance contract in advance, not later than 30 days prior to the date of the termination of the validity of insurance contract, unless otherwise provided.

In case of the termination of insurance contract in advance upon insurant's request, insurer shall

return him insurance payments for the period left until the termination of validity of a contract deducting standard expenses for conducting a case, determined when calculating insurance tariff, actual payments of insurance sums and insurance indemnity, which have been executed under this insurance contract. If insurant's request is caused by the breach of the terms of insurance contract by insurer, the latter shall return insurance payments entirely paid-up by him.

When terminating an insurance contract in advance upon the request of insurer, insurant shall be given insurance payments entirely paid-up by him. If the insurer's request is caused by the non-fulfilment of the terms of insurance contract by insurant, insurer shall return to insurant insurance payments for the validity period of the contract deducting standard expenses for conducting a case, determined in the amount of insurance tariff, payments of insurance sums and insurance indemnity, which have been executed under this insurance contract.

Return of funds in cash shall not be allowed, if payments have been made in non-cash form on condition of the termination of insurance contract in advance.

Article 28. Invalidity of Insurance Contract

Insurance contract shall be declared null and void from the moment of its conclusion in cases, stipulated by civil legislation of Ukraine.

Besides, in accordance with this Law, insurance contract shall also be declared null and void in case:

- 1) when it is concluded after insured accident;
- 2) when an object of insurance contract is property, subject to confiscation on the basis of a judgement or a decision which has come into force.

Insurance contract shall be declared null and void in judicial order.

CHAPTER III ASSURANCE OF INSURERS' SOLVENCY

Article 29. Terms and Conditions of Assuring Insurers' Solvency

Insurers should observe the following terms and conditions of assuring insurers' solvency:

availability of the paid-up authorised fund and availability of a warranty fund of insurer;
creation of insurance reserves, sufficient for further payments of insurance sums and insurance indemnity;
excess of the actual reserve of insurer's solvency over the calculated standard reserve of solvency.

The minimal amount of the authorised fund of insurer shall be fixed in a sum, equal to 100.000 ECU, according to the foreign exchange rate of Ukraine. For insurers, established with the participation of foreign legal entities and foreign citizens, the minimal amount of the authorised fund of insurer shall be fixed in a sum, equal to 500.000 ECU.

Special and reserve funds as well as the sum of undistributed profit shall belong to the warranty fund of insurer.

Insurers may establish free reserves of profit.

Free reserves is a share of insurer's own funds, which is reserved with a purpose of additional assurance of insurer's solvency, in accordance with the accepted method of conducting insurance activity.

In order to insure the fulfilment of the obligations on certain types of insurance on the part of insurers, insurers may establish the centralised insurance reserve funds and bodies, which shall manage these funds. The provision about these funds shall be approved by the Committee on Supervision over Insurance Activity.

Deductions from insurance earnings, premium from insurer's own funds, as well as income from distribution of resources from the centralised insurance reserve funds, may be the sources for creating the centralised insurance reserve funds.

Insurers, in accordance with the volumes of insurance activity, should maintain the appropriate level of the actual reserve of solvency (net assets).

Insurer's reserve of solvency (net assets) shall be determined by deducting the sum of non-tangible assets and total sum of obligations, including the insurance ones, from the value of property (total sum of assets) of insurer. Insurance obligations shall be equal to the volumes of available technical reserves.

The actual reserve of insurer's solvency on any date shall exceed the calculated standard reserve of solvency.

The standard reserve of insurer's solvency on a reported date (life insurance contracts are not taken into account) shall be equal to the largest figure among the determined ones, namely:

the first - through multiplication of receipts from insurance premiums during the reported period by 0.25.

The receipts from insurance premiums decreases by 90 per cent of insurance premiums, paid to reinsurers;

the second - through multiplication of amount of payments executed during the reported period under insurance contracts by 0.30. The amount of payments decreases by 90 per cent of payments, compensated by reinsurers according to the signed reinsurance contracts.

If insurance sum for a certain insurance project exceeds 10 per cent of the sum of the paid-up authorised fund and formed insurance reserves, insurer should conclude a contract of reinsurance.

Insurers, which have undertaken insurance obligations in volumes, exceeding the possibility of their fulfilment by the use of their own assets, should insure the risk of fulfilment of the mentioned obligations by reinsurers, typically, by residents.

In order to insure the insurance obligations on life insurance and medical insurance, insurers shall form separate reserves from the receipts of insurance payments and revenues from investing funds of the formed reserves on these types of insurance.

The method of forming reserves for life assurance, the volumes of insurance obligations depending on the types of contracts on life assurance, as well as the minimal validity period of contracts on life assurance, shall be established by the Committee on Supervision over Insurance Activity.

The Cabinet of Ministers of Ukraine may modify the procedure of determining the actual and standard reserve of solvency and the structure of the warranty fund.

Article 30. Insurance Reserves

Insurance reserves shall be formed by insurers with a purpose of ensuring future payments of insurance sums and insurance indemnity depending on a type of insurance (reinsurance).

Insurance reserves in volumes, which do not exceed technical reserves, shall be formed of such currencies, for which insurers are responsible for their insurance obligations.

Insurance reserves shall be divided into technical reserves and reserves on life assurance.

Formation of reserves on life assurance, medical insurance and compulsory types of insurance, shall be fulfilled separately from other types of insurance.

Insurers should form and keep records of the following technical reserves of the types of insurance (except life assurance):

not-earned premiums (reserves of premiums), including the shares of receipts from insurance payments (insurance contributions, insurance premiums), corresponding to insurance risks which have not taken place on the reported date;

losses, including the reserved not-paid sums of insurance indemnity upon the known requirements of insurers.

The amount of reserves of not-earned premiums on any reported date shall be established depending on the receipts from insurance payments (insurance contributions, insurance premiums) for the appropriate types of insurance in each quarter of the period preceding this reported date, and shall be calculated in the following order:

receipts from insurance payments (insurance contributions, insurance premiums) in the first quarter of this period shall be multiplied by one fourth;

receipts from insurance payments (insurance contributions, insurance premiums) in the second quarter shall be multiplied by one second;

receipts from insurance payments (insurance contributions, insurance premiums) in the last quarter shall be multiplied by three fourth;

the obtained results shall be added-up.

The legislative acts may determine a separate list of reserves on medical insurance, as well as the order of their formation and registration.

Insurers should create and keep records of the following reserves on life assurance:
long-term obligations (mathematical reserves);
due payments of insurance sums.

The amount of reserves of the long-term obligations (mathematical reserves) shall be calculated actuarially separately for each contract according to the method of forming reserves on life assurance, indicated in article 29 of this Law, taking account of the increase in the inflation rate.

The Cabinet of Ministers of Ukraine may modify the list of insurance reserves and the procedure of their calculation.

Insurance reserves should be distributed with account taken of security, profitability, liquidity and diversification, and should be represented by the assets of the following categories:

- monetary means at the clearing account;
- bank assets (deposits);
- real estate property;
- securities, providing the receipt of income;
- securities issued by the government;
- the rights-claims to reinsurers;
- long-term investment credits (for reserves on life assurance);
- cash in vault in volumes of the limits of cash balance, established by the National Bank of Ukraine.

Reserves on life assurance may be used for a long-term crediting of the housing construction, including the individual constructors, in order, determined by the Cabinet of Ministers of Ukraine.

Insurers are not allowed to perform other types of the credit activity.

Article 31. Insurer's Profit

Balance profit of insurer shall be comprised of a profit from insurance activity, profit from investment and distribution of the temporarily free funds, profit from other transactions.

Profit from insurance activity (excluding life assurance and medical insurance, the procedure and terms of their conduct shall be determined by the legislative acts) shall be calculated as a margin between the revenues from insurance activity and expenses of insurer for provision of insurance services.

Income from insurance activity shall include:

- 1) earned insurance payments (insurance contributions, insurance premiums) under contracts of insurance and reinsurance.

The earned insurance payments (insurance contributions, insurance premiums) shall be determined by means of increasing the receipts from insurance payments (insurance contributions, insurance premiums) during the reported period by the sum of not-earned insurance payments (insurance contributions, insurance premiums) for the beginning of the reported period, and by means of decreasing the obtained result by the sum of not-earned insurance payments (insurance contributions, insurance premiums) by the end of the reported period.

The receipts from insurance payments (insurance contributions, insurance premiums) shall not include the shares of insurance payments (insurance contributions, insurance premiums), which have been paid to reinsurers in the reported period under contracts of reinsurance;

- 2) commission for reinsurance;
- 3) shares of insurance sums and insurance indemnity, paid-up to reinsurers;
- 4) returned sums from the centralised insurance reserve funds;
- 5) returned sums of the technical reserves, other, than reserve of not-earned premiums, in cases and on conditions, foreseen by the legislative acts.

The insurer's expenses shall include:

payments of insurance sums and insurance indemnity;
deductions to the centralised insurance reserve funds;
deductions the technical reserves, other, than reserve of not-earned premiums, in cases and on conditions, foreseen by the legislative acts;
expenses for conducting insurance;
other expenses, included in the prime cost of insurance services.

Gross income of insurer shall be determined as an amount of revenues from insurance activity, profit from providing life assurance, profit from non-sales transactions and other sales, decreased for the payment of insurance sums and insurance indemnity, deductions to the centralised insurance reserve funds and to the technical reserves, other than reserve of not-earned premiums.

Profit from activity on life assurance shall be determined by the sum of a surplus of reserves of the long-term obligations (mathematical reserves) in excess of the volumes of insurance obligations, which is used in the reported period for insurer s own needs, including payments of dividends to insurer s participants.

Profit from investment and distribution of the temporarily free funds shall not include the revenues from investment and distribution of funds of reserves on life assurance and medical insurance in case of their use for increasing the reserves on life assurance in accordance with the method of forming reserves on life assurance, indicated in article 29 of this Law, or for increasing reserves on medical insurance in cases, foreseen by the legislative acts.

Article 32. Fund of Insurance Guarantees

For the purpose of ensuring insurance obligations, insurers may establish, on the basis of a contract, the Fund of Insurance Guarantees, which shall be a legal entity. The state registration of the Fund shall be fulfilled in order, envisaged for the state registration of the agents of economic activity. A body, carrying out the registration of the Fund, within a ten-day term from the registration date, shall notify of it the Committee on Supervision over Insurance Activity.

Voluntary deductions from insurance reserves, formed by insurers, operating in Ukraine, as well as the revenues from the distribution of these funds, shall be the sources for establishing the Fund of Insurance Guarantees. The amount of deductions to the Fund of Insurance Guarantees and the procedure of using resources of this Fund shall be established by insurers participating in it.

Article 33. Specific Character of Accounting and Insurers Reporting

Insurers should submit to the Committee on Supervision over Insurance Activity a quarterly balance sheet, profit and loss report and other reporting data in a form, established by the Committee on Supervision over Insurance Activity, approved by the owner (his authorised organ) of insurer, and also submit upon the request of the Committee on Supervision over Insurance Activity all necessary explanations relating to the reporting data.

Article 34. Publication of Annual Balances by Insurers

Insurers shall publish their annual balance in a form and order, established by the Committee on Supervision over Insurance Activity.

Reliability and completeness of annual balance and report of insurers should be confirmed by an auditor (auditor s firm).

CHAPTER IV

STATE SUPERVISION OVER INSURANCE ACTIVITY IN UKRAINE

Article 35. State Supervision over Insurance Activity

State supervision over insurance activity shall be carried out with a purpose of fulfilling the requirements of the legislation of Ukraine on insurance, effective development of actuarial services, prevention of insurers' insolvency and protection of rights of insureds.

State supervision over insurance activity on the territory of Ukraine shall be carried out by the Committee on Supervision over Insurance Activity and its subsidiary offices, operating in accordance with the provision, adopted by the Cabinet of Ministers of Ukraine.

Article 36. Functions of the Committee on Supervision over Insurance Activity

The main functions of the Committee on Supervision over Insurance Activity shall be:

- 1) to keep a unified state register of insurers (reinsurers);
- 2) to issue licences for insurance activity;
- 3) control over insurers' solvency regarding the fulfilment of their insurance obligations before insureds;
- 4) establishing rules on formation and distribution of insurance reserves;
- 5) development of normative and methodical documents concerning insurance activity, placed by this Law under the authority of the Committee on Supervision over Insurance Activity;
- 6) summarising of the practice of insurance activity, elaboration and submission in due order of proposals relating to the development and improvement of the legislation of Ukraine on insurance activity;
- 7) participation in the implementation of measures on raising qualification of personnel for insurance activity.

Article 37. The Rights of the Committee on Supervision over Insurance Activity

The Committee on Supervision over Insurance Activity shall be entitled;

- 1) to obtain within its competence from insurer the specified reports on insurance activity and information about their financial situation, as well as information from enterprises, institutions and organisations, including banks and citizens, necessary for performance of functions entrusted to him;
- 2) to carry out verification of accuracy of application of the legislation of Ukraine on insurance activity by insurers and reliability of their reports on parameters, characterising the fulfilment of insurance contracts, not often than once a year, and appoint the fulfilment, at the insurer's expenses, of additional compulsory auditor's verification with determination of an auditor.
- 3) when disclosing the violation of requirements of the legislation of Ukraine on insurance activity by insurers, to provide them with instructions about their liquidation, and in case of the failure to fulfil these instructions to terminate or restrict the validity of licences of these insurers until the

elimination of the disclosed violations, or to make a decision on withdrawal of licences and exclusion of insurers (reinsurers) from the state register. Disputes about the withdrawal of licence shall be considered by the court or arbitration court. Renewal of a licence after its withdrawal shall be carried out in order, envisaged by articles 38,39 of this Law;

- 4) to address the arbitration court with a claim concerning the state registration of insurer as an agent of economic activity in cases, envisaged by article 8 of the Law of Ukraine On Entrepreneurial Activity .

Article 38. Licensing of Insurance Activity

The Committee on Supervision over Insurance Activity shall issue licences for insurers for conducting certain types of insurance and reinsurance, foreseen by article 4 of this Law.

Insurers, which have obtained a licence for life assurance, are not entitled to be engaged in other types of insurance.

In order to obtain a licence insurer shall submit to the Committee on Supervision over Insurance Activity an application, which shall be enclosed by:

copies of the constituent documents and a copy of certificate of registration;

bank references or reports of the auditor s firms (auditors), confirming the amount of the paid-up authorised fund;

reference about financial situation of founders of insurer, confirmed by an auditor (auditor's firm), if insurer is established in the form of a full or comandit society or society with additional liability;

rules (conditions) of insurance;

economic grounding of planned insurance (reinsurance) activity;

information about insurer's participants, the head of the executive body and his deputies, a copy of the diploma of highest education of the head, information about the availability of the appropriate certificates, provided for by the Committee on Supervision over Insurance Activity.

The Committee on Supervision over Insurance Activity should consider an application of insurer about issuing him a licence within a period, not exceeding 30 days from the moment of the receipt of all documents, foreseen by this article.

Insurer should notify in due order the Committee on Supervision over Insurance Activity of the introduction of amendments in documents specified in this article, within a ten-day term from the moment of the registration of all amendments.

Article 39. Refusal to Issue a Licence for Insurance Activity and Consideration of Disputes Concerning its Withdrawal

Inconsistency of documents attached to an application with the requirements of the legislation of Ukraine, shall be the grounds for a refusal to issue a licence for insurance activity to a legal person.

The Committee on Supervision over Insurance Activity shall notify a legal entity of the refusal to issue a licence in a written form indicating the reason of such refusal.

Disputes about a refusal to issue or revoke a licence shall be considered by the court or the arbitration court.

Article 40. Observance of Insurer s Commercial Secret by Officials of the Committee on Supervision over Insurance Activity

The officials of the Committee on Supervision over Insurance Activity in case of disclosure in any form of the data, which is a commercial secret of insurer, shall bear responsibility, envisaged by the legislation.

Article 41. Relationship of Insurer and the State

Insurer is not responsible for obligations of the state, the state is not responsible for insurer's obligations, except the compulsory state insurance, according to which the state shall guarantee the performance of obligations before insurer in case of insurer's insolvency on this type of insurance.

Any centralised regulation (unification, restriction, obligation etc.) of amounts of insurance payments (tariffs) and insurance sums (insurance indemnity), the terms and conditions of conclusion of insurance contracts, relationship of insurer and insured, if it does not contradict the legislation of Ukraine, shall not be allowed, except the compulsory insurance, as well as life assurance, citizen's property, reinsurance and activity of insurance intermediaries.

Article 42. Guarantees of Rights and Legitimate Interests of Insurers

The state shall guarantee the observance and protection of property and other rights and legitimate interests of insurers, conditions of fair competition in the implementation of insurance activity.

Interference into the insurers' activity on the part of the state and other bodies shall be prohibited, if it is not connected with the powers of the bodies carrying out state supervision and control over insurers' activity.

Article 43. Liquidation, Reorganisation and Sanation of Insurer

The Committee on Supervision over Insurance Activity shall be entitled to execute a forced sanation of insurer in cases of:

- failure of insurer to perform obligations before insureds during more than three months; - non-achievement by insurer of the amount of the authorised fund, established by the legislation of Ukraine;
- other cases, determined by the legislation of Ukraine.

Forced sanation shall provide for:

- the performing of complex verification of the financial and economic activity of insurer, including the compulsory auditor's verification;
- ban on the free use of insurer's property and assuming of insurance obligations without permission of the Committee on Supervision over Insurance Activity;
- introduction of compulsory for fulfilment schedule for the execution of payments with insureds;
- making a decision on the liquidation or reorganisation of insurer. Liquidation of insurer shall be carried out in order, foreseen by the legislation of Ukraine.

Reorganisation of insurer, according to a decision of the Committee on Supervision over Insurance Activity, shall provide for:

- reorganisation by means of insurance agent, in accordance with normative acts regulating the activity of insurance agents;

- association of several insurers with the determination of the procedure for the transfer of insurance obligations on condition of a consent of the owners of insurers;
- attraction of foreign insurers to the number of insurer s participants, on condition of their payments for all obligations and insurer s debts, the date of payment of which has already begun. The share of foreign participation in the authorised fund may be fixed at the level of not more than 50 per cent of the total amount of the authorised fund, except insurers, which have obtained a licence entitling them for life assurance, for which the share of foreign participation can not exceed 49 per cent of the total amount of the authorised fund.

When liquidating insurer, in case when insurer s participants have made such a decision and insurer has no obligations before insureds, the Committee on Supervision over Insurance Activity shall make a decision on the exclusion of insurer from the unified state register of insurers (reinsurers).

Exclusion of insurer from the state register of agents of economic activity by the local authorities in terms of his liquidation or reorganisation shall be executed only after introduction of the appropriate amendments in the unified state register of insurers (reinsurers).

Reorganisation of insurer (merger, accession, division, extraction, reforming) shall be carried out in order, determined by the legislation, taking account of the specific character of ensuring succession in relation to the conclusion of a contract of insurance, established by the Committee on Supervision over Insurance Activity.

CHAPTER V FINAL PROVISIONS

Article 44. Insurance of Foreign Citizens, Stateless Persons and Foreign Legal Entities on the Territory of Ukraine

Foreign citizens, stateless persons and foreign legal entities on the territory of Ukraine shall enjoy equal right to insurance protection with citizens and legal entities of Ukraine.

Article 45. Consideration of Disputes

Disputes, connected with insurance, shall be allowed in order, stipulated by the legislation of Ukraine.

Article 46. International Agreements

If international agreement, to which Ukraine is a party, stipulates the rules, different from those stipulated by this Law, the rules of international agreement shall be applied on the territory of Ukraine.

Article 47. Final Provisions

The Decree of the Cabinet of Ministers of Ukraine of 10 May 1993 N 47-93 On Insurance (Vedomosti of the Supreme Rada of Ukraine, 1993, N 29, p.320) shall be recognised as not valid.

The President of Ukraine L.Kuchma
city of Kyiv
7 March 1996
N 85/96-SR

**RESOLUTION
OF THE SUPREME RADA OF UKRAINE
ON PROCEDURE OF ENFORCEMENT
OF THE LAW OF UKRAINE ON INSURANCE**

The Supreme Rada of Ukraine RESOLVES:

1. To enforce the Law of Ukraine On Insurance as of the date of its publication.
2. To establish that provisions of the second part of article 38 concerning insurers, which have obtained a licence for life assurance before the enforcement of this Law, shall be applied as of 1 January 1997.
3. To establish that insurers, created before the enforcement of this Law, should form their authorised funds in accordance with the requirements of articles 2 and 29 of this Law before 1 January 1997.
4. For insurers with participation of foreign legal entities and foreign citizens, established before the enforcement of this Law, shall have the prolonged term of payment of the minimal authorised fund, established by article 29, in the amount of 100.000 ECU on 31 March 1997.
5. The Committee on Supervision over Insurance Activity before 31 March 1997 shall make a registration of all insurers.

To revoke licences entitling to perform insurance activity and exclude from the state register of insurers (reinsurers) those insurers, which have not fulfilled the requirements of articles 2 and 29 of this Law on 31 March 1997.

Further verification of consistence of the paid-up fund of insurers, established by this Law, with normatives, shall be annually performed by the Committee on Supervision over Insurance Activity on 31 March.

6. To allow insurers-residents to perform the intermediary activity on the territory of Ukraine in favour of foreign insurers only in the field of the sales of insurance policies for compulsory types of insurance, provided for by the legislation of other countries, for a term until the accession to international agreements concerning recognition of policies of Ukrainian insurers on the territories of these countries.

7. The Cabinet of Ministers of Ukraine within a two-month term shall:

- to submit proposals about introduction of amendments in the legislation of Ukraine on the partial exemption of insurance premiums of citizens under contracts on life assurance from taxation of their incomes;
- to make proposals about the creation of the Aviation and the Sea Insurance Bureau, which shall be entitled to perform insurance against aviation and sea risks of all insurants-residents;
- to ensure to bring the normative acts of executive bodies in compliance with this Law.

The Head of the Supreme Rada of Ukraine A. Moroz

city of Kyiv
7 March 1996
N 86/96-SR

