

Rules of
Department of Insurance
Division 500—Property and Casualty
Chapter 10—Mortgage Guaranty Insurance

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**Title 20—DEPARTMENT OF
INSURANCE**

**Division 500—Property and Casualty
Chapter 10—Mortgage Guaranty
Insurance**

20 CSR 500-10.100 Definitions

PURPOSE: This rule defines terms and explains usage rules for those terms used in this chapter. This regulation implements section 379.010, RSMo.

(1) As used in this chapter—

(A) Authorized real estate security means an amortized note bond or other evidence of indebtedness, not exceeding one hundred percent (100%) of the fair market value of the real estate, secured by a mortgage, deed of trust or other instrument constituting a first lien or charge on real estate, provided—

1. The real estate loan secured in that manner is one authorized to be made by a bank, savings and loan association or an insurance company, which entity is supervised and regulated by a department of this state or an agency of the federal government; however, in the case of residential real estate loans only, the list of entities in this paragraph shall include mortgage bankers and mortgage brokers supervised and regulated by a department of this state or an agency of the federal government; or

2. The lien on that real estate may be subject and subordinate to the following:

A. The lien of any public bond, assessment or tax, when no installment, call or payment of or under the bond, assessment or tax is delinquent; or

B. Outstanding mineral, oil or timber rights, rights-of-way, easements or rights-of-way or support, sewer rights, building restrictions or other restrictions or covenants, conditions or regulations of use or outstanding leases upon real property under which rents or profits are reserved to the owner;

(B) Contingency reserve means an additional premium reserve established for the protection of policyholders against the effect of adverse economic cycles;

(C) Director means the director of insurance, state of Missouri;

(D) Mortgage guaranty insurance means—

1. Insurance against financial loss by reason of nonpayment of principal, interest and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust or other instrument constituting a lien or charge on real estate or on an owner-occupied mobile home; or

2. Insurance against financial loss by reason of nonpayment of rent and other sums agreed to be paid under the terms of a written lease for the possession, use or occupancy of real estate provided the improvement on that real estate includes a building(s); and

(E) Policyholders' surplus means the aggregate of capital, surplus and contingency reserve.

AUTHORITY: section 374.045, RSMo Supp. 1999. Original rule filed April 11, 1996, effective Nov. 30, 1996. Amended: Filed Aug. 31, 2000, effective April 30, 2001.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995.*

20 CSR 500-10.200 Financial Regulation

PURPOSE: This rule defines terms and explains usage for those terms used in this chapter. This regulation implements section 379.010, RSMo.

(1) Capital and Surplus. A company shall not transact the business of mortgage guaranty insurance unless it has a paid-in capital and surplus of at least the amounts specified in section 379.080, RSMo.

(2) Restrictions on Transaction of Business.

(A) Mortgage guaranty insurance shall be written only to insure loans secured by authorized real estate securities as defined in 20 CSR 500-10.100(1)(A) and for insurance against financial loss under a written lease as provided in 20 CSR 500-10.100(1)(D).

(B) A mortgage guaranty company shall not insure loans secured by properties in a single housing tract or a contiguous tract in excess of ten percent (10%) of the company's policyholders' surplus. In determining the amount of the risk, applicable reinsurance in any assuming company authorized to transact mortgage guaranty insurance in this state shall be deducted from the total direct risk insured. Contiguous, for the purposes of this section, means not separate by more than one-half (1/2) mile.

(C) A mortgage guaranty company writing residential mortgage guaranty insurance may write no more than twenty percent (20%) of its insurance in force on commercial property. A separate company may be formed to write guaranty insurance other than residential and this company shall not be subject to the foregoing twenty percent (20%) limitation.

(D) A mortgage guaranty company company's liability shall in no event exceed the actual loss. In lieu of paying the percentage of

the loan insured as specified in the policy, a mortgage guaranty company may elect, with the consent of the insured, to pay the entire indebtedness to the insured and acquire title to the authorized real estate security.

(E) Nothing in this regulation shall be construed as limiting the right of any mortgage guaranty company to impose reasonable requirements upon the lender with regard to the terms of any note or bond or other evidence of indebtedness secured by a mortgage or deed of trust, such as requiring a stipulated down payment by the borrower.

(3) Limit of Aggregate Liability. A mortgage guaranty company at any time shall not have outstanding a total liability under its aggregate insurance policies exceeding twenty-five (25) times its policyholder's surplus, this liability to be computed on the basis of the company's liability under its election as provided in subsection (2)(D). In the event that any company has outstanding total liability exceeding twenty-five (25) times its policyholders' surplus, it shall cease transacting new business until a time as its total liability no longer exceeds twenty-five (25) times its policyholders' surplus.

(4) Limitation of Dividends of Mortgage Guaranty Companies. A mortgage guaranty company shall not declare any dividends except from undivided profits over and above the aggregate of its paid-in capital, paid-in surplus and contingency reserve.

(5) Reserves.

(A) The reserves enumerated in this rule shall be maintained by the company and reported as liabilities in the annual and periodic statements furnished to the director of insurance.

(B) The liability to claimants for losses outstanding shall be computed upon the cash basis, including a reserve for claims reported and unpaid and a reserve for claims incurred, but not yet reported, including: estimated losses on insured loans which have resulted in the conveyance of property which remains unsold; insured loans in the process of foreclosure; and insured loans in default for four (4) or more months.

(C) General expenses, including amounts due vendors for goods, supplies, equipment and amounts due for salaries, taxes, licenses and fees.

(D) Mortgage guaranty companies shall compute the unearned premium reserve on a monthly *pro rata* basis.

(E) Whenever the laws of any other jurisdiction in which a mortgage guaranty company subject to the requirements of this section



is also licensed to transact mortgage guaranty insurance require a larger unearned premium reserve the aggregate than that set forth, the establishment of a larger unearned premium reserve shall be in compliance with this section.

(6) Special Contingency Reserve.

(A) Each mortgage guaranty company shall establish a contingency reserve out of net premiums remaining (gross premiums less premiums returned to policyholders) after establishment of unearned premium reserve. To the contingency reserve the company shall contribute an amount equal to fifty percent (50%) of the remaining premiums. The yearly contributions to the contingency reserve made during each calendar year shall be maintained for a period of one hundred twenty (120) months, except that withdrawals may be made by the company in any given year in which the actual losses exceed the expected losses.

(B) Subject to the written consent of the director of insurance, the contingency reserve shall be available for loss payments only when and to the extent that the incurred losses in any calendar year exceed the expected losses for that year. The term expected losses as used is defined to mean an amount equal to thirty-five percent (35%) of the premiums earned during that calendar year without diminution because of contributions to the contingency reserve. Release of monies from the contingency reserve for payment of losses as permitted in this rule shall be on the first-in, first-out basis.

AUTHORITY: section 374.045, RSMo 2000. Original rule filed April 11, 1996, effective Nov. 30, 1996. Amended: Filed Dec. 14, 2000, effective July 30, 2001.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995.*

20 CSR 500-10.300 Unfair Acts or Practices

PURPOSE: This rule carries out and effectuates the provisions of sections 375.930-375.948, RSMo (1994), as such sections apply to mortgage guaranty insurance.

(1) An insurer issuing or proposing to issue mortgage guaranty insurance commits the unfair act or practice of “misrepresentation and false advertising of insurance policies” as defined in section 375.936(6)(a), RSMo 1994, unless the insurer: 1) shall adopt, print and make available a schedule of premium

charges for mortgage guaranty insurance policies. The schedule shall show the entire amount of premium charge for each type of mortgage guaranty insurance policy issued by the company.

AUTHORITY: section 375.948, RSMo 1994. Original rule filed April 11, 1996, effective Nov. 30, 1996. Amended: Filed Aug. 31, 2000, effective April 30, 2001.*

**Original authority: 375.948, RSMo 1959, amended 1978, 1991.*

20 CSR 500-10.400 Policy Rates and Forms

PURPOSE: This rule effectuates sections 379.420 to 379.510, RSMo (1994), as such sections apply to mortgage guaranty insurance.

In lieu of examination under section 379.475, RSMo, all premium rates, together with the applicable policy forms and endorsements, providing mortgage guaranty insurance shall be filed with the director within ten (10) days of issuance in this state.

AUTHORITY: section 374.045, RSMo 1994. Original rule filed April 11, 1996, effective Nov. 30, 1996.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995.*