

**LAW**

**ON INSURANCE BUSINESS**

(No. 24/2000/QH10 of December 9, 2000)

*In order to protect the legitimate rights and interests of organizations and individuals participating in insurance; to step up insurance business activities; contribute to promoting and maintaining the sustainable socio-economic development, stabilizing the people's life; and to enhance the effectiveness of the State management over insurance business activities; Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam; This Law prescribes the insurance business.*

**Chapter I**

**GENERAL PROVISIONS**

**Article 1.-** Scope of regulation

1. This Law shall govern the organization and operation of insurance business and define the rights and obligations of organizations as well as individuals participating in insurance.
2. This Law shall not apply to social insurance, health insurance, deposit insurance and other types of insurance, which are provided by the State and do not bear the commercial nature.

**Article 2.-** Application of the Law on Insurance Business, relevant legislation, international treaties and international practices

1. The organization and operation of insurance business in the territory of the Socialist Republic of Vietnam must comply with the provisions of this Law and other provisions of relevant legislation.
2. In cases where the international treaties which the Socialist Republic of Vietnam has signed or acceded to contain provisions different from the provisions of this Law, the provisions of such international treaties shall apply.
3. Parties participating in insurance may agree to apply international practices if such practices do not run counter to Vietnamese laws.

**Article 3.-** Interpretation of terms

In this Law, the following terms shall be construed as follows:

1. Insurance business means the operation carried out by insurance enterprises for the purpose of profit generation, whereby the insurance enterprises accept risks incurred by the insured on the basis of insurance premium payment by the insurance buyers so that the insurance enterprises shall pay the insurance money to the beneficiary or indemnify the insured when the insured events occur.

2. Reinsurance business means the operation carried out by insurance enterprises for the purpose of profit generation, whereby the insurance enterprises receive an amount of premium paid by other insurance enterprises for the commitment to pay compensation for the liabilities which the former have accepted for insurance.
3. Insurance agency activities mean the activities of introducing, offering and selling insurance, arranging the conclusion of insurance contracts and other activities aiming to perform the insurance contracts under authorization of insurance enterprises.
4. Insurance brokerage activities mean the provision of information and consultancy to the insurance buyers on insurance products, insurance conditions, premium rates, insurance enterprises and activities relating to the negotiation, arrangement and performance of insurance contracts at the request of the insurance buyers.
5. Insurance enterprises are those which are established, organized and operate under the provisions of this Law and other provisions of relevant legislation, for insurance or reinsurance business.
6. Insurance buyers are organizations or individuals that enter into insurance contracts with insurance enterprises and pay premium. An insurance buyer may also be concurrently the insured or the beneficiary.
7. The insured means organizations or individuals that have property, civil liabilities and/or life are insured under insurance contracts. The insured may also be concurrently the beneficiary.
8. The beneficiaries mean organizations or individuals designated by the insurance buyers to receive insurance money under person insurance contracts.
9. Insurable interests mean the rights to ownership, the rights to possession, the right to use, the property rights; the rights and obligations to foster and provide financial support for insured objects.
10. Insured events mean objective events mutually agreed upon by the parties or prescribed by law upon the occurrence of which the insurance enterprises shall have to pay the insurance money to the beneficiaries or pay indemnities to the insured.
11. Premium means a sum of money to be paid by the insurance buyers to insurance enterprises according to time limits and by modes mutually agreed upon by the parties in the insurance contracts.
12. Life insurance means a class of insurance provided to cases where the insured is alive or dead.
13. Endowment insurance means a class of insurance provided to cases where the insured lives till a certain point of time, whereby the insurance enterprises shall have to pay insurance money to the beneficiaries, should the insured remain alive till the time limit agreed upon in the insurance contracts.
14. Term insurance means a class of insurance provided to cases where the insured dies within a certain period of time, whereby the insurance enterprises shall have to pay insurance money to the beneficiaries, should the insured die within the time limits agreed upon in the insurance contracts.

15. Combined insurance means a class of insurance which combines endowment insurance and term insurance.

16. Whole life insurance means a class of insurance provided to cases where the insured dies at any time during his/her life.

17. Annuity means a class of insurance provided to cases where the insured lives for a certain time limit; then after such time limit the insurance enterprises shall have to pay insurance money periodically to the beneficiaries as agreed upon in the insurance contracts.

18. Non-life insurance means a class of property, civil liability and other insurances other than life insurance.

**Article 4.-** The State's guarantee for insurance business

1. The State shall protect the legitimate rights and interests of organizations and individuals participating in insurance and organizations engaged in insurance business.

2. The State shall invest capital and other resources for the State enterprises engaged in insurance business to develop and play the leading role on the insurance market.

3. The State shall adopt the policies to develop the insurance market in Vietnam, the policies of preferences for insurance operations in service of the socio-economic development objectives, especially the programs for development of agriculture, forestry and fishery.

**Article 5.-** International cooperation in the field of insurance business

The State shall exercise the uniform management of and work out policies for expanding, the international cooperation in the field of insurance business on the basis of respect for each others independence, sovereignty, equality and mutual benefits along the direction of multilateralization and diversification; encourage foreign insurance enterprises and insurance brokerage enterprises to attract foreign investors, to invest their capital in Vietnam and reinvest their profits earned from insurance business activities in service of the cause of socio-economic development in Vietnam; create conditions for insurance enterprises and insurance brokerage enterprises to promote cooperation with foreign countries in order to raise the efficiency of insurance business.

**Article 6.-** Basic principles in insurance activities

1. Organizations and individuals having demands for insurance may only participate in the insurance at insurance enterprises operating in Vietnam.

2. The insurance enterprises must satisfy all financial requirements in order to fulfill their commitments to the insurance buyers.

**Article 7.-** Types of insurance operation

1. Life insurance shall include:

- a) Whole life insurance;
- b) Endowment insurance;
- c) Term insurance;
- d) Combined insurance;
- e) Annuity;

f) Other life insurance operations prescribed by the Government.

2. Non-life insurance shall include:

- a) Health insurance and human accident insurance;
- b) Property insurance and damage insurance;
- c) Land, marine, river, railway and air cargo transport insurance;
- d) Aviation insurance;
- e) Motorized vehicle insurance;
- f) Fire and explosion insurance;
- g) Hull insurance and ship-owners' civil liability insurance;
- h) Common liability insurance;
- i) Credit insurance and financial risks insurance;
- j) Business loss insurance;
- k) Agricultural insurance;
- l) Other non-life insurance operations prescribed by the Government.

3. The Finance Ministry shall make a detailed list of insurance products.

**Article 8.- Compulsory insurance**

1. The compulsory insurance means a type of insurance for which the conditions, premium rates and minimum insurance sum are prescribed by law for compulsory implementation by both the organizations or individuals participating in insurance and the insurance enterprises.

The compulsory insurance shall only apply to a number of insurance types for the purpose of protecting the public interests and social safety.

2. The compulsory insurance shall include:

- a) Motorized vehicle owners' civil liability insurance, insurance of air carriers' civil liability toward passengers;
- b) Professional liability insurance for legal consultancy operations;
- c) Insurance brokerage enterprises' professional liability insurance;
- d) Fire and explosion insurance.

3. Depending on the socio-economic development demands of each period, the Government shall submit to the National Assembly Standing Committee other types of compulsory insurance for its prescription.

**Article 9.- Reinsurance**

1. Insurance enterprises may provide reinsurance for other insurance enterprises, including foreign insurance enterprises.

2. Where reinsurance is provided for insurance enterprises overseas, the insurance enterprises shall have to reinsure part of the liability they have insured to domestic reinsurance enterprises as provided for by the Government.

**Article 10.- Cooperation and competition in insurance business**

1. Insurance enterprises, insurance agents and insurance brokerage enterprises may engage in cooperation and lawful competition in insurance business.

2 The following acts shall be strictly forbidden:

- a) Providing untruthful information or advertisement on insurance contents, operation scope and terms, which cause harms to the legitimate rights and interests of the insurance buyers;
- b) Competing for customers by means of obstructing, inducing, buying off or intimidating employees or customers of other insurance enterprises, agents or brokerage enterprises;
- c) Making illegal sale promotions;
- d) Conducting other illegal competitions.

**Article 11.- Right to join socio-professional insurance business associations**

Insurance enterprises, insurance agents and insurance brokerage enterprises may join socio-professional insurance business associations for the purpose of developing the insurance markets and protecting the legitimate rights and interests of members under the provisions of law.

**Chapter II**

**INSURANCE CONTRACTS**

**SECTION 1. GENERAL PROVISIONS ON INSURANCE CONTRACTS**

**Article 12.- Insurance contracts**

1. An insurance contract is the agreement reached between the insurance buyer and an insurance enterprise whereby the insurance buyer shall have to pay premiums while the insurance enterprise shall have to pay insurance money to the beneficiary or the indemnity to the insured upon the occurrence of the insured event.

2. Types of insurance contract shall include:

- a) Person insurance contracts;
- b) Property insurance contracts;
- c) Civil liability insurance contracts.

3. Maritime insurance contracts shall comply with the provisions of the Maritime Code; for matters not prescribed by the Maritime Code, the provisions of this Law shall apply.

4. Matters relating to insurance contracts, which are not prescribed in this Chapter, shall comply with the provisions of the Civil Code and other relevant law provisions.

**Article 13.- Contents of insurance contracts**

1. An insurance contract must contain the following details:

- a) Names and addresses of the insurance enterprise, the insurance buyer, the insured or the beneficiary;
- b) The object of insurance;
- c) The sum insured, the value of the insured property for property insurance;
- d) The insurance scope, insurance conditions, insurance terms;
- e) Terms on exclusion of insurance liability;
- f) Insurance duration;
- g) Premium rate, mode of premium payment;
- h) Time limit and mode of paying insurance money or indemnity;
- i) Provisions on settlement of disputes;
- k) Day, month and year of concluding the contract.

2. Apart from the contents specified in Clause 1 of this Article, an insurance contract may also contain other details mutually agreed upon by the parties concerned.

**Article 14.-** Forms of insurance contract

The insurance contracts must be made in writing.

The evidence of conclusion of insurance contracts shall be the insurance certificates, insurance applications, telegrams, telexes, faxes and other forms prescribed by law.

**Article 15.-** The time when the insurance liability arises

The insurance liability arises when the insurance contracts are concluded or when there appears evidence that the insurance enterprises have accepted the insurance and the insurance buyers have paid the premiums, except otherwise agreed upon in the insurance contracts.

**Article 16.-** Provisions on exclusion of insurance liability

1. The provisions on exclusion of insurance liability shall stipulate cases where insurance enterprises shall not have to pay indemnities or insurance money when the insured events occur.
2. The provisions on exclusion of insurance liability must be clearly stated in the insurance contracts. The insurance enterprises shall have to clearly explain them to the insurance buyers when the contracts are made.
3. The provisions on exclusion of insurance liability shall not apply in the following cases:
  - a) The insurance buyers breach laws unintentionally;
  - b) The insurance buyers have plausible reasons for the late notification of the occurrence of the insured events to the insurance enterprises.

**Article 17.-** Rights and obligations of insurance enterprises

1. An insurance enterprise shall have the following rights:
  - a) To collect premiums as agreed upon in the insurance contract;
  - b) To request the insurance buyer to fully and honestly supply information relating to the conclusion and performance of the insurance contract;

- c) To unilaterally suspend the performance of the insurance contract according to the provisions in Clause 2 of Article 19, Clause 2 of Article 20, Clause 2 of Article 35 and Clause 3 of Article 50, of this Law;
- d) To decline to pay the insurance money to the beneficiary or to pay indemnity to the insured for cases outside the scope of insurance liability or cases of exclusion of insurance liability as agreed upon in the insurance contract;
- e) To request the insurance buyer to take measures to prevent or limit losses according to the provisions of this Law and other relevant law provisions;
- f) To request the third party to refund the insurance money which the insurance enterprise has indemnified the insured for the losses caused by the third party to the property and civil liability;
- g) Other rights prescribed by law.

2. An insurance enterprise shall have the following obligations:

- a) To explain to the insurance buyer the insurance conditions and provisions; the rights and obligations of the insurance buyers;
- b) To issue to the insurance buyer the insurance certificate, the insurance policy immediately after the conclusion of the insurance contract;
- c) To pay insurance money to the beneficiary in time or the indemnity to the insured when the insured event occurs;
- d) To explain in writing the reasons for declining to pay the insurance money or the indemnity;
- e) To coordinate with the insurance buyer in settling the third party's claim for compensation for the losses which fall under the insured liability when the insured event occurs;
- f) Other obligations prescribed by law.

**Article 18.-** Rights and obligations of the insurance buyers

1. An insurance buyer shall have the following rights:

- a) To choose one from among the insurance enterprises operating in Vietnam for the purchase of insurance;
- b) To request the insurance enterprise to explain the insurance conditions and terms and issue the insurance certificate or insurance policy;
- c) To unilaterally suspend the performance of the insurance contract under the provisions in Clause 3 of Article 19 and Clause 1 of Article 20 of this Law;
- d) To request the insurance enterprise to pay the insurance money to the beneficiary or the indemnity to the insured as agreed upon in the insurance contract when the insured event occurs;
- e) To transfer the insurance contract as agreed upon in the insurance contract or under the provisions of law;
- f) Other rights prescribed by law.

2. An insurance buyer shall have the following obligations:

- a) To pay premiums fully, according to time limits and mode agreed upon in the insurance contract;
- b) To declare fully and honestly all details relating to the insurance contract at the request of the insurance enterprise;
- c) To notify cases where risks may increase or the insurance enterprise's additional liability may arise in the course of performing the insurance contract to the insurance enterprise at the latter's request;
- d) To notify the insurance enterprise of the occurrence of the insured event as agreed upon in the insurance contract;
- e) To apply measures to prevent or limit losses according to the provisions of this Law and other relevant law provisions;
- f) Other obligations prescribed by law.

**Article 19.-** Responsibility to supply information

1. When entering into insurance contracts, the insurance enterprises have the responsibility to fully supply information on the insurance contracts, explain insurance conditions and terms to the insurance buyers; the insurance buyers have the responsibility to fully supply information on the objects of insurance to the insurance enterprises. The parties shall be accountable for the accuracy and truthfulness of such information. The insurance enterprises shall have to keep confidential the information supplied by the insurance buyers.

2. Insurance enterprises may unilaterally suspend the performance of insurance contracts and collect the premiums to the time of suspending the performance of the insurance contracts when the insurance buyers commit one of the following acts:

- a) Intentionally supplying untruthful information with a view to entering into insurance contracts in order to be paid with the insurance money or the indemnities;
- b) Failing to fulfill the obligations to supply information to the insurance enterprises as provided for at Point c, Clause 2, Article 18 of this Law.

3. Where insurance enterprises intentionally supply untruthful information with a view to entering into insurance contracts, the insurance buyers may unilaterally suspend the performance of the insurance contracts; such insurance enterprises shall have to pay compensation for the damage caused to the insurance buyers due to the supply of untruthful information.

**Article 20.-** Changes in degrees of insured risks

1. When there appear changes in the factors used as basis for premium calculation, thus leading to the reduction in the insured risks, the insurance buyers may request the insurance enterprises to reduce the premiums for the remaining periods of the insurance contracts. Where the insurance enterprises refuse to reduce the premiums, the insurance buyers may unilaterally suspend the performance of the insurance contracts but have to immediately notify such in writing to the insurance enterprises.

2. When there appear changes in the factors used as basis for premium calculation, thus leading to the increase in the insured risks, the insurance enterprises may recalculate the premium for the remaining periods of the insurance contracts. Where the insurance buyers refuse to accept the



premium increase, the insurance enterprises may unilaterally suspend the performance of the insurance contracts, but shall have to immediately notify such in writing to the insurance buyers.

**Article 21.-** Interpretation of insurance contracts

Where an insurance contract contains ambiguous clauses, such clauses shall be interpreted in favor of the insurance buyer.

**Article 22.-** Null and void insurance contracts

1. An insurance contract shall become null and void in the following cases:

- a) The insurance buyer has no interests which can be insured;
- b) The object of insurance no longer exists at the time of entering into the insurance contract;
- c) The insurance buyer, at the time of entering into the insurance contract, knows the insured event has already occurred;
- d) The insurance buyer or the insurance enterprise commits acts of deception when entering into the insurance contract;
- e) Other cases prescribed by law.

2. The handling of null and void insurance contracts shall comply with the provisions of the Civil Code and other relevant law provisions.

**Article 23.-** Termination of insurance contracts

Apart from cases of contract termination under the provisions of the Civil Code, an insurance contract shall also be terminated in the following circumstances:

1. The insurance buyer no longer has the interests which can be insured;
2. The insurance buyer fails to fully pay the premium or fails to pay the premium within the time limit agreed upon in the insurance contract, except otherwise agreed upon by the parties;
3. The insurance buyer fails to fully pay the premium during the extended time limit for premium payment as agreed upon in the insurance contract.

**Article 24.-** Legal consequences of the termination of insurance contracts

1. In cases where an insurance contract is terminated under the provisions in Clause 1, Article 23 of this Law, the insurance enterprise shall have to refund the premium to the insurance buyer corresponding to the remaining period of the insurance contract for which the insurance buyer has paid the premium, after subtracting the reasonable expenses related to the insurance contract.
2. Where an insurance contract is terminated under the provisions in Clause 2, Article 23 of this Law, the insurance buyer shall still have to fully pay the premium to the time of terminating the insurance contract. This provision shall not apply to person insurance contracts.
3. Where an insurance contract is terminated under the provisions in Clause 3, Article 23 of this Law, the insurance enterprise shall still have to indemnify the insured when the insured event occurs within the premium paying time limit; the insurance buyer shall still have to pay the premium to the end of the extension period as agreed upon in the insurance contract. This provision shall not apply to person insurance contracts.

4. The legal consequences of the termination of insurance contracts in other cases shall comply with the provisions of the Civil Code and other relevant law provisions.

**Article 25.-** Amending and supplementing insurance contracts

1. The insurance buyer and the insurance enterprise may agree to amend and/or supplement the premium, the insurance conditions and terms, except otherwise provided for by law.

2. All amendments and supplements to insurance contracts must be made in writing.

**Article 26.-** Assignment of insurance contracts

1. The insurance buyer may assign the insurance contract as agreed upon in the insurance contract.

2. The assignment of an insurance contract shall be valid only when the insurance buyer notify the assignment in writing to the insurance enterprise and the insurance enterprise accepts such assignment in writing, except where the assignment is effected according to international practices.

**Article 27.-** Liability in case of reinsurance

1. The insurance enterprises shall be responsible only to the insurance buyers under the insurance contracts, including cases of reinsurance of the insured liabilities.

2. The reinsurance enterprises must not demand the insurance buyers pay the premiums directly to them, except otherwise agreed upon in the insurance contracts.

3. The insurance buyers must not demand the reinsurance enterprises pay the insurance money or indemnities to them, except otherwise agreed upon in the insurance contracts.

**Article 28.-** Time limit for claiming insurance money or indemnities

1. The time limit for claiming the insurance money or indemnity under insurance contracts shall be one year from the date the insured event occurs. The time when the force majeure event or other objective obstacle occurs shall not be counted into the time limit for claiming the insurance money or indemnities.

2. Where the insurance buyers can prove that they do not know the time when the insured events occur, the time limit prescribed in Clause 1 of this Article shall be counted from the date the insurance buyers know the occurrence of such insured events.

3. Where the third party demands the insurance buyer compensate for damage covered by the insurance as agreed upon in the insurance contract, the time limit prescribed in Clause 1 of this Article shall be counted from the date the third party so demands.

**Article 29.-** The time limit for payment of insurance money or indemnities

Upon the occurrence of insured events, insurance enterprises shall have to pay the insurance money or indemnities within the time limit already agreed upon in the insurance contracts. In case of the absence of the agreement on such time limit, the insurance enterprises shall have to pay the insurance money or indemnities within 15 days from the date of receiving complete and valid dossiers claiming insurance money or indemnities.

**Article 30.-** Statute of limitations for instituting a lawsuit

The statute of limitations for instituting a lawsuit about an insurance contract shall be three years from the time the dispute arises.

## **SECTION 2. PERSON INSURANCE CONTRACTS**

### **Article 31.-** Objects of person insurance contracts

1. The objects of person insurance contracts shall be the human age, life, health and accidents.
2. The insurance buyers may only buy insurance for the following persons:
  - a) The insurance buyers themselves;
  - b) Their spouses, children and/or parents;
  - c) Their blood brothers and sisters; person with ties of fostering and financial support;
  - d) Other persons, if the insurance buyers have the interests that can be insured.

### **Article 32.-** Sums of insurance money

Sums of insurance money or modes of determining the sums of insurance money shall be agreed upon by the insurance buyers and the insurance enterprises in the insurance contracts.

### **Article 33.-** Bases for paying insurance money for human accidents, health

1. In human accident insurance, the insurance enterprises shall have to pay the insurance money to the beneficiaries within the limit of the insurance money amount, depending on the actual infirmity suffered by the insured and the mutual agreement in the insurance contracts.
2. In human health insurance, the insurance enterprises shall have to pay the insurance money to the insured within the limit of the insurance money amount, depending on the expenses for medical examination and treatment, health restoration for the insured as a result of illness or accident and on the mutual agreement in the insurance contracts.

### **Article 34.-** Disclosure of age in life insurance

1. The insurance buyers shall be obliged to disclose the accurate ages of the insured at the time of entering into insurance contracts for use as basis for calculating the insurance premiums.
2. Where the insurance buyers disclose inaccurate ages of the insured while the latter's accurate ages are not included in the insurable age groups, the insurance enterprises may cancel the insurance contracts and refund the already paid insurance premium amounts to the insurance buyers after subtracting relevant reasonable expenses. Where the insurance contracts have taken effect for more than two years, the insurance enterprises shall have to return to the insurance buyers the reimbursed values of the insurance contracts.
3. Where the insurance buyers disclose inaccurate ages of the insured, thus reducing the payable insurance premium amounts, but the accurate ages of the insured persons remain to be in the insurable age groups, the insurance enterprises shall have the right:
  - a) To request the insurance buyers to pay additional insurance premiums corresponding to the insurance money amounts already agreed upon in the contracts;
  - b) To reduce the insurance money amounts already agreed in the insurance contract corresponding to the already paid amount of insurance premiums.

4. Where the insurance buyers disclose inaccurate ages of the insured, thus leading to the increase in the payable insurance premium amounts, but the accurate ages of the insured persons remain to be in the insurable age groups, the insurance enterprises shall have to refund to the insurance buyers the overpaid insurance premium amounts or increase the insurance money amounts already agreed upon in the insurance contracts corresponding to the paid insurance premium amount.

**Article 35.-** Payment of life insurance premiums

1. The insurance buyers may pay the insurance premiums in lump sum or in installments according to the time limit and mode agreed upon in the insurance contracts.
2. Where the insurance premiums are paid in installments and the insurance buyers have already paid the premiums in one or several installments but cannot further pay the insurance premiums in subsequent installments, the insurance enterprises may, within 60 days after the extension of the time limit for premium payment, unilaterally suspend the performance of the contracts, the insurance buyers shall have no right to reclaim the already paid insurance premium amount if the duration for which the insurance premiums have already been paid is under two years, except otherwise agreed upon by the parties.
3. Where the insurance buyers have already paid the insurance premiums for two years or more while the insurance enterprises unilaterally suspend the performance of the contracts as provided for in Clause 2 of this Article, the insurance enterprises shall have to refund to the insurance buyers the returned values of the insurance contracts, except otherwise agreed upon by the parties.
4. The parties may agree to restore the effect of insurance contracts already unilaterally suspended from their performance as provided for in Clause 2 of this Article within two years from the date the contracts are suspended and the insurance buyers have already paid the outstanding insurance premium amounts.

**Article 36.-** Not entitled to initiate lawsuits to demand the insurance premium payment

In person insurance, if the insurance buyers have not paid or have inadequately paid the insurance premiums, the insurance enterprises are not allowed to initiate lawsuits, demanding the insurance buyers to pay insurance premiums.

**Article 37.-** Not entitled to demand refund by the third party

Where the insured dies, gets disable or sick as a direct or indirect result of the third party's acts, the insurance enterprises shall still be obliged to repay the insurance money amount but have no right to demand the third party refund the money amount already paid to the beneficiary. The third party shall have to indemnify the insured according to the provisions of law.

**Article 38.-** Entering into person insurance contracts for case of death

1. When the insurance buyers enter into person insurance contracts for case of other persons' death, they must get the latter's written consents clearly inscribing the insurance money amount and the beneficiary thereof.

All cases of change of the beneficiary must be agreed upon in writing by the insurance buyers.

2. Person insurance contracts for the death of the following persons must not be entered into:

- a) Persons under 18 years of age, except where it is agreed in writing by the fathers, mothers or guardians of such persons;
- b) Persons suffering from mental diseases.

**Article 39.-** Cases of non-payment of insurance money

1. Insurance enterprises shall not have to pay the insurance money in the following cases:

- a) The insured dies of suicide within two years counting from the date the first sum of insurance premium is paid or from the date the insurance contract continues to be effective;
- b) The insured dies or suffers from infirmity due to the intentional fault of the insurance buyer or the intentional fault of the beneficiary;
- c) The insured dies due to the execution of death sentence.

2. Where one or several beneficiaries intentionally cause death or infirmity to the insured, the insurance enterprise shall still have to pay the insurance money to other beneficiaries as agreed upon in the insurance contract.

3. For cases prescribed in Clause 1 of this Article, the insurance enterprises shall have to return to the insurance buyers the value of the insurance contracts or the entire paid premium amounts after subtracting the relevant reasonable expenses; if the insurance buyers die, the returned amount shall be handled according to the legislation on inheritance.

**SECTION 3. PROPERTY INSURANCE CONTRACTS**

**Article 40.-** Subjects of property insurance contracts

Subjects of property insurance contracts shall include tangible objects, currency, papers which can be valued in money and property rights

**Article 41.-** Insurance money amounts

The insurance money amount is the sum requested by the insurance buyer to be insured for such property.

**Article 42.-** Over-value property insurance contracts

1. Over-value property insurance contracts mean contracts in which the insured sums are higher than the market prices of the insured property at the time of entering into contracts. The insurance enterprises and the insurance buyers must not enter over-value property insurance contracts.

2. Where an over-value property insurance contract is concluded due to unintentional faults of the insurance buyer, the insurance enterprise shall have to return to the insurance buyer the already paid insurance premium amount corresponding to the insured sum in excess of the market price of the insured property, after subtracting relevant reasonable expenses. In cases where the insured event occurs, the insurance enterprise shall only have to pay indemnities for the damage not exceeding the market price of the insured property.

**Article 43.-** Under-value property insurance contracts

1. The under-value property insurance contracts mean contracts in which the insured sums are lower than the market prices of the insured property at the time of concluding the contracts.

2. Where an under-value property insurance contract is concluded, the insurance enterprise shall have to pay the indemnities according to the proportion between the insured sum and the market price of the insured property at the time of concluding the contract.

**Article 44.-** Coincident insurance contracts

1. A coincident insurance contract is the case where the insurance buyer concludes insurance contracts with two or more insurance enterprises to insure the same objects, with the same insurance conditions and insured event.

2. Where parties enter into a coincident insurance contract, when the insured event occurs, each insurance enterprise shall only have to make indemnity according to the proportion of the insured sum agreed upon against the total insured sums of all contracts concluded by the insurance buyer. The total sum of indemnities of the insurance enterprises shall not exceed the value of actual damage caused to the property.

**Article 45.-** Damage due to natural tear and wear or inherent nature of the property

Insurance enterprises shall not bear responsibility in cases where the insured property are damaged due to natural tear and wear or their inherent nature, except otherwise agreed upon in the insurance contracts.

**Article 46.-** Bases for indemnity

1. The indemnity amounts which the insurance enterprises have to pay to the insured shall be determined on the basis of the market prices of the insured property at the time when and the place where the damage is caused and the actual damage extent, except otherwise agreed upon in the insurance contracts. The expenses for determining the market prices and damage extent shall be borne by the insurance enterprises.

2. The indemnity amounts to be paid by the insurance enterprises to the insured shall not exceed the insured sums, except otherwise agreed upon in the insurance contracts.

3. Apart from the indemnity sums, the insurance enterprises shall also have to pay to the insured necessary and reasonable expenses for the loss prevention and limitation as well as arising expenses incurred by the insured to follow the instructions of the insurance enterprises.

**Article 47.-** Forms of indemnity

1. The insurance buyers and the insurance enterprises may agree on one of the following indemnity forms:

- a) Repairing the damaged property;
- b) Replacing the damaged property with other property;
- c) Paying indemnity money.

2. Where the insurance enterprises and the insurance buyers cannot reach agreement on indemnity forms, the compensation shall be made in money.

3. Where the indemnity is made according to the provisions at Points b and c, Clause 1 of this Article, the insurance enterprises may recover the damaged property after they are replaced or fully compensated at the market prices.

**Article 48.-** Expertise of damage

1. Upon the occurrence of the insured events, the insurance enterprises or persons authorized by the insurance enterprises shall carry out the expertise in order to determine the cause and extent of the damage. The expenses for expertise of damage shall be borne by the insurance enterprises.
2. Where the parties cannot reach agreement on the cause and extent of the damage, they can invite independent experts, except otherwise agreed upon in the insurance contracts. Where the parties cannot reach agreement on inviting independent experts, one of the parties may request the court in the locality where the damage is caused or where the insured resides to designate the independent experts. The conclusions made by the independent experts shall be binding on all parties.

**Article 49.-** Responsibility to transfer the right to request refunds

1. Where the third party is at fault in causing damage to the insured and the insurance enterprise has already paid the indemnity money to the insured, the insured shall have to transfer the right to request the third party to refund the indemnity sum he/she has received to the insurance enterprise.
2. Where the insured refuses to transfer such right to the insurance enterprise, fail to reserve or give up the right to request the third party to indemnify, the insurance enterprise may deduct the indemnity sum depending on the degree of fault committed by the insured.
3. The insurance enterprises must not request fathers, mothers, spouses, offspring, siblings of the insured to refund the sums they have paid to the insured, except where these persons intentionally cause the damage.

**Article 50.-** Regulations on safety

1. The insured must abide by the regulations on fire prevention and fighting, on labor safety, labor hygiene and other relevant law provisions in order to ensure safety for the insurance objects.
2. The insurance enterprises may inspect the conditions to ensure safety for insurance objects or propose, request the insured to apply measures to prevent and limit risks.
3. Where the insured fails to take measures to ensure safety for the insurance objects, the insurance enterprises may set a time limit for the insured to apply such measures; if past such time limit the safety measures are not applied, the insurance enterprises may raise the insurance premiums or unilaterally suspend the performance of the insurance contracts.
4. The insurance enterprises may apply preventive measures to ensure safety for insurance objects when so agreed by the insurance buyers or competent State bodies.

**Article 51.-** Not to abandon insured property

In cases where damage is caused, the insured must not abandon the insured property, except otherwise provided for by law or agreed upon by the parties.

**SECTION 4. CIVIL LIABILITY INSURANCE CONTRACTS**

**Article 52.-** Subject of civil liability insurance contracts

Subject of civil liability insurance contracts shall be the insured's civil liability toward the third party as prescribed by law.

**Article 53.-** Responsibility of insurance enterprises

1. The insurance enterprises' responsibility shall arise only if the third party requests the insured to pay compensations for damage caused to the third party during the insurance time by such persons who are at fault.
2. The third party shall not be entitled to directly request the insurance enterprises to pay the indemnities, except otherwise provided for by law.

**Article 54.- Insurance money amounts**

The insurance money amounts mean the amounts of money the insurance enterprises shall have to pay to the insured as agreed upon in the insurance contracts.

**Article 55.- Limits of insured liability**

1. Within the limits of the insurance sums, the insurance enterprises shall have to pay the insured the amounts which, under the provisions of law, the insured has to indemnify the third party.
2. Apart from paying the indemnities as provided for in Clause 1 of this Article, the insurance enterprises shall also have to pay for expenses related to the settlement of disputes over the liability for the third party and the interests to be paid to the third party as the insured defer the payment of damages under the instructions of the insurance enterprises.
3. The total indemnities of the insurance enterprises prescribed in Clauses 1 and 2 of this Article shall not exceed the insurance sums, except otherwise agreed upon in the insurance contracts.
4. Where the insured have to pay deposits or collateral in order to have the property not kept in custody or to avoid lawsuits at courts, the insurance enterprises, at the request of the insured, shall have to provide guarantee or collateral within the limits of the insurance amounts.

**Article 56.- Right to represent the insured**

The insurance enterprises may represent the insurance buyers in negotiations with the third party on the levels of compensation for damage, except otherwise agreed upon in the insurance contracts.

**Article 57.- Mode of indemnification**

At the insureds request, the insurance enterprises may pay indemnities directly to the insured or the victims being the third party.

**Chapter III**

**INSURANCE ENTERPRISES**

**SECTION 1. GRANTING PERMITS FOR ESTABLISHMENT AND OPERATION**

**Article 58.- Establishment and operation of insurance enterprises**

The insurance enterprises shall be established and operate under the provisions of this Law and other relevant law provisions.

**Article 59.- Types of insurance enterprises**

Types of insurance enterprise shall include:

1. State-run insurance enterprise;
2. Joint stock insurance company;



3. Mutual support insurance organization;
4. Joint venture insurance enterprise;
5. Insurance enterprises with 100% foreign investment capital.

**Article 60.-** Contents of operation of insurance enterprises

1. The operation of insurance enterprises shall cover the following contents:

- a) Insurance business, re-insurance business;
- b) Risk, loss prevention and limitation;
- c) Damage expertise;
- d) Damage expertise agency, consideration of indemnity settlement, request for refund by the third party;
- e) Fund management and capital investment;
- f) Other activities as prescribed by law.

2. The insurance enterprises may not concurrently carry out life insurance business and non-life insurance business, except for cases where the life insurance enterprises conduct health insurance and human accident insurance business operation in support of life insurance.

**Article 61.-** Contents of re-insurance business

The re-insurance business shall cover:

1. Transferring part of the insured liability to one or several other insurance enterprises;
2. Accepting the re-insurance of part or entire liability already insured by other insurance enterprises.

**Article 62.-** Competence to grant establishment and operation licenses

1. The Finance Ministry shall grant establishment and operation licenses to insurance enterprises according to the provisions of this Law and other relevant law provisions.
2. The granting of establishment and operation licenses to insurance enterprises must be in line with the planning and plans on orientation for the development of insurance market and the financial market of Vietnam.

**Article 63.-** Conditions for being granted the establishment and operation licenses

The conditions for being granted the establishment and operation licenses include:

1. Having the contributed legal capital not being lower than the legal capital amount prescribed by the Government;
2. Having the dossiers of application for establishment and operation licenses made according to the provisions in Article 64 of this Law.
3. Having types of enterprise and charters compatible with the provisions of this Law and other law provisions;
4. The administrative and executive personnel have the capabilities for management, insurance profession and operation.

**Article 64.-** Dossiers of application for establishment and operation licenses

A dossier of application for an establishment and operation license shall include:

1. The application for the establishment and operation license;
2. The draft charter of the enterprise;
3. The plan for operation in the first five years, clearly stating the modes of deduction for setting up professional reserves, re-insurance program, capital investment, business efficiency, solvency of the insurance enterprise and economic benefits of the establishment of the enterprise;
4. The list, curricula vitae and diplomas evidencing the capabilities as well as professional qualifications, of the administrators and executive officials of the enterprise;
5. The contributed capital level and mode of capital contribution, the list of organizations and individuals that hold 10% or more of the charter capital; the financial situation and other information relating to such organizations and individuals;
6. Insurance rules, terms, charge and commission rates of the insurance products planned for implementation.

**Article 65.-** Licensing time limit

Within 60 days after the receipt of the full dossiers of application for an establishment and operation license, the Finance Ministry shall have to grant or refuse to grant the license. In case of refusal to grant the license, the Finance Ministry must clearly explain in writing the reasons therefor.

The establishment and operation licenses shall also be valid as the business registration certificates.

**Article 66.-** Licensing fee

The insurance enterprises which are granted the establishment and operation licenses shall have to pay the licensing fees according to the provisions of law.

**Article 67.-** Disclosure of operation contents

After being granted the establishment and operation licenses, the insurance enterprises shall have to make public the business operation contents according to the provisions of law.

**Article 68.-** Withdrawal of establishment and operation licenses

1. Insurance enterprises may have their establishment and operation licenses withdrawn in one of the following cases:
  - a) The dossiers of application for establishment and operation licenses contain intentionally falsified information;
  - b) Past 12 months after being granted the establishment and operation licenses the insurance enterprises fail to start their operation;
  - c) The enterprises are dissolved according to the provisions in Article 82 of this Law;
  - d) The enterprises are divided, separated, merged, bankrupt, transformed in their types;

e) They operate for the wrong purposes or in contravention of the contents prescribed in their establishment and operation licenses;

f) They fail to meet the financial requirements for the fulfillment of their commitments with the insurance buyers.

2. In case of having their establishment and operation licenses withdrawn under the provisions at Points a, b, c, e and f, Clause 1 of this Article, the insurance enterprises shall have to immediately stop the conclusion of new insurance contracts, but still have the responsibility to pay the insurance money to the beneficiaries or the indemnities to the insured and have to perform the insurance contracts concluded before the withdrawal of their establishment and operation licenses.

Where the establishment and operation licenses are withdrawn under the provisions at Point d, Clause 1 of this Article, the rights and obligations of the parties shall comply with the provisions of law.

3. The decisions to withdraw establishment and operation licenses of insurance enterprises shall be announced by the Finance Ministry on the mass media.

#### **Article 69.-** Changes requiring approval

1. The insurance enterprises must get the Finance Ministry's approval when changing one of the following contents:

a) The enterprises' names;

b) The charter capital;

c) Setting up or closing branches and/or representative offices;

d) Locations of head-offices, branches, representative offices;

e) Operation contents, scope and duration;

f) Transfer of shares, contributed capital representing 10% or more of the charter capital;

g) Managing Board chairmen, general directors (directors);

h) Division, separation, merger, consolidation, dissolution, transformation of enterprise.

2. Within 30 days from the date the Finance Ministry approves the changes prescribed in Clause 1 of this Article, the insurance enterprises shall have to make public the approved changes as provided for by law.

## **SECTION 2. MUTUAL SUPPORT INSURANCE ORGANIZATIONS**

#### **Article 70.-** Mutual support insurance organizations

The mutual support insurance organizations are those having the legal person status, which are established to conduct insurance business for the purpose of providing mutual support and assistance among members. The members of mutual support insurance organizations are the owners and the insurance buyers too.

#### **Article 71.-** Members of mutual support insurance organizations

1. Vietnamese organizations and citizens aged full 18 years or older, who have full capacity for civil acts, that operate in the same field, the same occupation and have the demand for insurance

may all join in founding the mutual support insurance organizations in the capacity as the founding members.

2. Only organizations and individuals that enter into insurance contracts with mutual support insurance organizations can become members of the mutual support insurance organizations.

**Article 72.-** Limit of liability of the mutual support insurance organizations

The mutual support insurance organizations shall only be liable to their debts and other property obligations within their property.

**Article 73.-** Establishment, organization and operation of the mutual support insurance organizations

The establishment, organization and operation of the mutual support insurance organizations shall be stipulated by the Government.

**SECTION 3. TRANSFER OF INSURANCE CONTRACTS**

**Article 74.-** Transfer of insurance contracts

1. The transfer of an entire insurance contract on one or several insurance operations between insurance enterprises shall be effected in the following cases:

- a) The insurance enterprise is in the danger of insolvency;
- b) The insurance enterprise is split up, separated, consolidated, merged or dissolved;
- c) It is so agreed upon between insurance enterprises.

2. Where the insurance enterprise is in danger of insolvency or dissolution and cannot reach agreement on the transfer of insurance contracts to other insurance enterprise, the Finance Ministry shall designate the insurance enterprise to be transferee.

**Article 75.-** Conditions for transfer of insurance contracts

The transfer of insurance contracts shall be carried out under the following conditions:

1. The transferee enterprises are dealing in the insurance operations to be transferred;
2. The rights and obligations under the to be- transferred insurance contracts shall not alter till the expiry of the insurance contracts;
3. The transfer of insurance contracts must be made together with the transfer of funds and professional reserves related to the entire insurance contracts to be transferred.

**Article 76.-** Procedures for transfer of insurance contracts

The transfer of insurance contracts shall comply with the following procedures:

1. The insurance enterprises transferring the insurance contracts must file their applications proposing the transfer of insurance contracts to the Finance Ministry, clearly stating the reasons and plans of transfer, together with the to be- transferred contracts. The transfer of insurance contracts shall be carried out only after it is approved in writing by the Finance Ministry;
2. Within 30 days from the date the Finance Ministry approves the transfer of insurance contracts, the insurance contract-transferring enterprises must make public the transfer and notify it in writing to the insurance buyers.

## **SECTION 4. RESTORATION OF SOLVENCY, DISSOLUTION AND BANKRUPTCY OF INSURANCE ENTERPRISES**

### **Article 77.- Solvency**

1. Insurance enterprises must always maintain their solvency throughout the process of their insurance business activities.
2. Insurance enterprises are considered solvent when they fully set up through deductions the professional reserves as provided for in Article 96 of this Law and have the solvency amplitude not lower than the minimum solvency amplitude prescribed by the Government.
3. The solvency amplitude of an insurance enterprise is the difference between the property value and the payable debts of that insurance enterprise.

### **Article 78.- Reporting on insolvency danger**

1. An insurance enterprise is in danger of insolvency when its solvency amplitude is lower than the minimum solvency amplitude prescribed by the Government.
2. Where being in the danger of insolvency, insurance enterprises shall have to immediately report to the Finance Ministry on their real financial status, the causes leading to the danger of insolvency and the remedial measures.

### **Article 79.- Insurance enterprises' liability in case of insolvency danger**

In case of being in danger of insolvency, the insurance enterprises shall have to apply the following measures:

1. Drawing up plans for restoration of their solvency, consolidation of their organization and operation, reporting them to the Finance Ministry and implementing the plans already approved by the Finance Ministry;
2. Meeting the Finance Ministry's request for restoration of solvency.

### **Article 80.- Control over the insurance enterprises being in danger of insolvency**

1. Where an insurance enterprise cannot restore its solvency according to the approved plan, the Finance Ministry shall issue a decision to set up the solvency control board for the application of measures to restore the solvency of such insurance enterprise.
2. The solvency control board shall have the following tasks and powers:
  - a) To direct and supervise the application of measures for solvency restoration according to the approved plan;
  - b) To notify the concerned State bodies of the application of measures to restore the solvency for coordinated implementation;
  - c) To restrict the scope and domain of operation of the insurance enterprise;
  - d) To suspend the activities which may lead to the insolvency of the insurance enterprise;
  - e) To request the insurance enterprise to transfer the entire insurance contract on one or several insurance operations to other insurance enterprises;

- f) To temporarily suspend the administrative and executive rights and request the insurance enterprise to replace Managing Board members, general director (director), deputy general director (deputy director) if deeming it necessary;
- g) To request the Managing Board, the general director to discharge from position or work persons who commit acts of law offense, fail to abide by the solvency restoration plan already approved;
- h) To propose the Finance Ministry to continue or terminate the solvency restoration measures;
- i) To report to the Finance Ministry on the application of solvency restoration measures and the results thereof.

3. The solvency control board must bear responsibility for its decisions as provided for by law in the course of applying measures to restore the solvency of the insurance enterprise.

4. The insurance enterprise shall have to implement the requests and decisions of the solvency control board.

#### **Article 81.- Terminating the application of solvency restoration measures**

1. The application of solvency restoration measures shall terminate in the following cases:

- a) The time limit for application of solvency restoration measures has expired;
- b) The insurance enterprise's operation has returned to normal;
- c) The insurance enterprise has been consolidated or merged before the expiry of the time limit for application of solvency restoration measures;
- d) The insurance enterprise falls into the state of bankruptcy.

2. The termination of application of solvency restoration measures shall comply with the decisions of the Finance Minister. Such decisions shall be notified to concerned bodies.

#### **Article 82.- Dissolution of insurance enterprises**

1. An insurance enterprise shall be dissolved in the following cases:

- a) It voluntarily applies for dissolution if it is solvent;
- b) Its operation duration prescribed in the establishment and operation license has expired without any decision on the extension thereof;
- c) Its establishment and operation license has been withdrawn under the provisions at Points a, b, e and f, Clause 1, Article 68 of this Law;
- d) Other cases prescribed by law.

2. The dissolution of insurance enterprises must be approved in writing by the Finance Ministry.

#### **Article 83.- Bankruptcy of insurance enterprises**

Where an insurance enterprise is incapable of paying its due debts and becomes insolvent even after the application of measures to restore its solvency, the bankruptcy of the insurance enterprise shall comply with the provisions of the legislation on bankruptcy of enterprises.

### **Chapter IV**

# **INSURANCE AGENTS, INSURANCE BROKERAGE ENTERPRISES**

## **SECTION I. INSURANCE AGENTS**

### **Article 84.- Insurance agents**

Insurance agents are organizations and individuals, that are authorized by insurance enterprises on the basis of insurance agency contracts to carry out the insurance agency activities according to the provisions of this Law and other relevant law provisions.

### **Article 85.- Contents of insurance agency activities**

Insurance agents may be authorized by insurance enterprises to carry out the following activities:

1. Making introduction, sale offer of insurance;
2. Arranging the conclusion of insurance contracts;
3. Collecting insurance premiums;
4. Arranging the payment of indemnities, insurance money when insured events occur;
5. Carrying out other activities relating to the performance of insurance contracts.

### **Article 86.- Conditions for insurance agency activities**

1. Individuals who conduct insurance agency activities must fully meet the following conditions:

- a) Being Vietnamese citizens permanently residing in Vietnam;
- b) Being full 18 years of age or older, having full civil act capacity;
- c) Having certificates of training in insurance agency, granted by insurance enterprises or Vietnam Insurance Association.

2. Organizations which conduct insurance agency activities must fully meet the following conditions:

- a) Being organizations lawfully established and operating;
- b) The agency organizations' personnel directly performing the insurance agency activities must satisfy all conditions prescribed in Clause 1 of this Article.

3. Persons who are being examined for penal liability or serving their imprisonment penalty or being deprived by the court of the right to professional practice due to their commission of the crimes prescribed by law are not allowed to sign insurance agency contracts.

### **Article 87.- Contents of insurance agency contracts**

An insurance agency contract must contain the following major details:

1. The name and address of the insurance agent;
2. The name and address of the insurance enterprise;
3. The rights and obligations of insurance enterprise, insurance agent;
4. The contents and scope of operation of the insurance agent;
5. The insurance agency commission;
6. The term of the contract;

7. The principles for settlement of disputes.

**Article 88.-** Responsibility of insurance agents

Where insurance agents breach the insurance agency contracts, causing damage to the legitimate rights and interests of the insured, the insurance enterprises shall still have to bear the responsibility for the insurance contracts concluded by the insurance agents; the insurance agents shall have to refund to the insurance enterprises the amounts the latter have paid to the insured.

**SECTION 2. INSURANCE BROKERAGE ENTERPRISES**

**Article 89.-** Insurance brokerage enterprises

The insurance brokerage enterprises are those which perform the insurance brokerage activities under the provisions of this Law and other relevant law provisions.

**Article 90.-** Contents of insurance brokerage activities

The insurance brokerage activities shall cover the following contents:

1. Providing information on the insurance types, conditions, terms, premiums and/or insurance enterprises to the insurance buyers;
2. Advising the insurance buyers on the evaluation of risks, selection of insurance types, conditions, terms, premium rate index, insurance enterprises;
3. Negotiating, arranging the conclusion of insurance contracts between insurance enterprises and insurance buyers;
4. Performing other jobs relating to the performance of insurance contracts at the request of the insurance buyers.

**Article 91.-** Rights and obligations of insurance brokerage enterprises

1. The insurance brokerage enterprises shall enjoy insurance brokerage commissions. The insurance brokerage commissions shall be calculated into the insurance premiums.
2. The insurance brokerage enterprises shall have the obligations:
  - a) To conduct brokerage in an honest manner;
  - b) Not to disclose, supply information, causing damage to the legitimate rights and interests of the insured;
  - c) To pay compensations to the insurance buyers for the damage caused by their brokerage activities.

**Article 92.-** Professional liability insurance

The insurance brokerage enterprises shall have to buy professional liability insurance for their insurance brokerage activities at insurance enterprises operating in Vietnam.

**Article 93.-** Granting of establishment and operation licenses

The granting of licenses for the establishment and operation of the insurance brokerage enterprises shall comply with the provisions in Article 62, Article 63, Clauses 1, 2, 3 and 4 of Article 64, and Articles 65, 66, 67, 68 and 69 of this Law.

**Chapter V**



## **FINANCE, COST ACCOUNTING AND FINANCIAL REPORT**

### **Article 94.-** Legal capital, charter capital

1. The Government shall stipulate the levels of legal capital of insurance enterprises and insurance brokerage enterprises.
2. In the course of operation, the insurance enterprises and the insurance brokerage enterprises must always maintain the contributed charter capital at the level not lower than the legal capital level.

### **Article 95.-** Escrow account

1. The insurance enterprises shall have to use part of their charter capital for escrow account at commercial banks operating in Vietnam.
2. The Government shall prescribe the escrow account amounts and the ways of using the escrow account money.

### **Article 96.-** Professional reserves

1. Professional reserves are the money amounts which must be set up with deductions by the insurance enterprises for the purpose of paying for insured liabilities, which have been pre-determined and arisen from the concluded insurance contracts.
2. The professional reserves must be established separately for each insurance operation and must correspond to the proportion of liability of the insurance enterprises.
3. The Finance Ministry shall specify the levels and methods of deduction for establishment of the professional reserve for each insurance operation.

### **Article 97.-** Reserve funds

1. The insurance enterprises and the insurance brokerage enterprises must set up compulsory reserve funds in order to supplement their charter capital and ensure their solvency. The level of 5% of the after-tax profits shall be deducted annually for the compulsory reserve funds. The maximum level of this fund shall be prescribed by the Government.
2. Apart from the compulsory reserve fund prescribed in Clause 1 of this Article, the insurance enterprises and the insurance brokerage enterprises may set up other reserve funds from after-tax profits of the fiscal year as provided for in the charters of the insurance enterprises or insurance brokerage enterprises.

### **Article 98.-** Capital investment

1. The investment of capital by insurance enterprises must ensure safety and efficiency, and satisfy the requirements of regular payment for the commitments under the insurance contracts.
2. The insurance enterprises may only use their idle capital for investment in Vietnam in the following domains:
  - a) Buying Government bonds;
  - b) Buying shares, enterprise bonds;
  - c) Dealing in real estates;
  - d) Contributing capital to other enterprises;

- e) Providing loans according to the provisions of the Law on Credit Institutions;
- f) Making deposits at credit institutions.

3. The Government shall specify the list of investment in the domains prescribed in Clause 2 of this Article and the percentage of idle capital allowed for investment in each list of investment in order to ensure that the insurance enterprises can always maintain their solvency.

**Article 99.-** Financial revenue, expenditure

1. The financial revenues and expenditures of insurance enterprises and insurance brokerage enterprises shall comply with the provisions of law.
2. The Finance Ministry shall guide and inspect the implementation of the financial regimes by the insurance enterprises and the insurance brokerage enterprises.

**Article 100.-** Fiscal year

The fiscal year of the insurance enterprises and the insurance brokerage enterprises commences on January 1 and ends on December 31 of the same calendar year. The first fiscal years of the insurance enterprises and the insurance brokerage enterprises shall start from the dates they are granted the establishment and operation licenses and end on the last day of the same year.

**Article 101.-** The accounting regime

The insurance enterprises and the insurance brokerage enterprises must observe the financial regimes applicable to the insurance enterprises according to the provisions of the legislation on accounting.

**Article 102.-** Auditing

The annual financial reports of the insurance enterprises and the insurance brokerage enterprises must be certified by independent auditing organizations.

**Article 103.-** Financial report

1. The insurance enterprises and insurance brokerage enterprises must observe the financial reporting regimes as prescribed by the legislation on accounting and make periodical reports on their professional activities as stipulated by the Finance Ministry.
2. Apart from the periodical reports, the insurance enterprises shall also have to report to the Finance Ministry in the following cases:
  - a) When abnormal developments occur in the enterprises' business operations;
  - b) When they fail to meet the prescribed financial requirements for the fulfillment of commitments to the insurance buyers.

**Article 104.-** Making public financial reports

After the end of a fiscal year, the insurance enterprises and the insurance brokerage enterprises must publicize the financial reports as provided for by law.

**Chapter VI**

**INSURANCE ENTERPRISES AND INSURANCE BROKERAGE ENTERPRISES WITH  
FOREIGN INVESTMENT CAPITAL**

**Article 105.-** Forms of operation

1. Foreign insurance enterprises and insurance brokerage enterprises shall be licensed for operation in Vietnam in the following forms:

- a) Joint venture insurance enterprise, joint venture insurance brokerage enterprise;
- b) Insurance enterprise with 100% foreign investment capital, insurance brokerage enterprise with 100% foreign investment capital.

2. Foreign insurance enterprises and insurance brokerage enterprises may set up their representative offices in Vietnam. Such representative offices are not allowed to conduct insurance business in Vietnam.

**Article 106.-** Conditions for being granted the establishment and operation licenses

The conditions for insurance enterprises and insurance brokerage enterprises to be granted the establishment and operation licenses shall include:

1. The conditions prescribed in Article 63 of this Law;
2. The foreign insurance enterprises and insurance brokerage enterprises are operating lawfully and in the normal financial state;
3. The foreign insurance enterprises and insurance brokerage enterprises are permitted by competent bodies of foreign countries to conduct insurance business or insurance brokerage activities in the domains planned to be carried out in Vietnam.

**Article 107.-** Conditions for being grant licenses to set up representative offices in Vietnam

The conditions for foreign insurance enterprises and insurance brokerage enterprises to be granted licenses for setting up their representative offices in Vietnam shall include:

1. The foreign insurance enterprises and insurance brokerage enterprises have operated for five years or more;
- 2 The foreign insurance enterprises and insurance brokerage enterprises have cooperative ties with Vietnamese agencies, organizations.

**Article 108.-** Licensing competence

The Finance Ministry shall grant establishment and operation licenses to the insurance enterprises and insurance brokerage enterprises with foreign investment capital; the licenses for setting up Vietnam-based representative offices of foreign insurance enterprises or insurance brokerage enterprises.

**Article 109.-** Dossiers of application for establishment and operation licenses

1. Apart from the contents prescribed in Article 64 of this Law, the dossier of application for establishment and operation licenses for the joint- venture insurance enterprises or insurance brokerage enterprises shall also include:

- a) The charter, the establishment and operation licenses of the parties to the joint venture;
- b) The joint venture contract;

c) The annual balance sheets and financial reports, certified by independent auditing organizations about the situation of operation of the joint venture parties for the three latest years.

2. Apart from the contents prescribed in Article 64 of this Law, the dossier of application for licenses for the establishment and operation of insurance enterprises and insurance brokerage enterprises with 100% foreign investment capital shall also include:

a) The charter, establishment and operation license of the foreign insurance enterprise or the foreign insurance brokerage enterprise in the country where it is headquartered;

b) The letter of authorization for the general director (director) in Vietnam;

c) The annual balance sheet and financial report, certified by the independent auditing organization of the situation of operation of the foreign insurance enterprise or insurance brokerage enterprise in the country where it is headquartered for the three latest years.

**Article 110.-** Dossiers of application for licenses to set up representative offices

The dossier of application for licenses to set up representative offices shall include:

1. The application for setting up the representative office;

2. The establishment and operation license of the foreign insurance enterprise or foreign insurance brokerage enterprise in the country where it is headquartered;

3. The annual balance sheet and financial report, certified by the independent auditing organization of the situation of operation of the foreign insurance enterprise or the foreign insurance brokerage enterprise for the three latest years;

4. The full names, curricula vitae of the chiefs of the representative offices in Vietnam;

5. The written introduction of the foreign insurance enterprise or insurance brokerage enterprise as well as its cooperation with Vietnamese agencies and/or organizations.

**Article 111.-** Licensing time limits, licensing fees and announcement of operation contents

The licensing time limits, the licensing fees and the announcement of operation contents for foreign-invested insurance enterprises and insurance brokerage enterprises, representative offices of foreign insurance enterprises or insurance brokerage enterprises shall comply with the provisions in Articles 65, 66 and 67 of this Law.

**Article 112.-** Withdrawal of licenses

1. Apart from the provisions in Article 68 of this Law, foreign-invested insurance enterprises and insurance brokerage enterprises may have their establishment and operation licenses withdrawn when the foreign insurance enterprises or insurance brokerage enterprises in the countries where they are headquartered have their establishment and operation licenses withdrawn.

2. Representative offices of foreign insurance enterprises or insurance brokerage enterprises shall have their setting up licenses withdrawn when the foreign insurance enterprises or insurance brokerage enterprises in the countries where they are headquartered have their establishment and operation licenses withdrawn.

**Article 113.-** Changes requiring approval

Changes requiring approvals for foreign-invested insurance enterprises or insurance brokerage enterprises shall comply with the provisions in Article 69 of this Law.

**Article 114.-** Operation contents

The contents of operation of foreign-invested insurance enterprises or insurance brokerage enterprises, or representative offices of foreign insurance enterprises or insurance brokerage enterprises must comply with the provisions of this Law and other provisions of Vietnamese legislation.

**Article 115.-** Funds, reserve funds and financial revenue and expenditure of foreign-invested insurance enterprises and insurance brokerage enterprises

1. The Government shall prescribe the legal capital levels for foreign-invested insurance enterprises and insurance brokerage enterprises.
2. The deductions for setting up compulsory reserve funds and other reserve funds of foreign-invested enterprises or insurance brokerage enterprises shall comply with the provisions in Article 97 of this Law.
3. The financial revenues and expenditures of foreign-invested insurance enterprises and insurance brokerage enterprises shall comply with the provisions of Vietnamese legislation.

**Article 116.-** Solvency, escrow account, professional reserves and capital investment of foreign-invested insurance enterprises

1. The foreign-invested insurance enterprises must maintain their solvency as provided for in Article 77 of this Law.
2. The foreign-invested insurance enterprises must make escrow account and deductions for establishment of professional reserves as provided for in Article 95 and Article 96 of this Law.
3. The foreign-invested insurance enterprises may invest their capital as provided for in Article 98 of this Law.

**Article 117.-** The regimes of accounting, auditing and financial reporting

1. The foreign-invested insurance enterprises and insurance brokerage enterprises must observe the accounting, auditing and financial-reporting regimes as provided for in Articles 101, 102, 103 and 104 of this Law.
2. Within 180 days after the end of a fiscal year, the foreign-invested insurance enterprises and insurance brokerage enterprises as well as representative offices of foreign-invested insurance enterprises or insurance brokerage enterprises must send the annual financial reports of the foreign insurance enterprises and insurance brokerage enterprises to the Finance Ministry.

**Article 118.-** Transfer of profits, property abroad

1. The insurance enterprises or insurance brokerage enterprises with 100% foreign investment capital may transfer abroad the remaining amounts of profits under their ownership after making deductions for establishment of funds and fulfilling all financial obligations as provided for by Vietnamese laws.
2. The foreign parties to the joint-venture insurance enterprises or insurance brokerage enterprises may transfer abroad the divided profit amounts after the joint-venture insurance

enterprises or insurance brokerage enterprises have already made deductions for establishment of funds and fulfilled all the financial obligations as provided for by Vietnamese laws.

3. The insurance enterprises with 100% foreign capital and the foreign parties to the joint-venture insurance enterprises; the insurance brokerage enterprises with 100% foreign capital and the foreign parties to the joint-venture insurance brokerage enterprises may transfer abroad the remainder of their property after liquidation, termination of their operation in Vietnam.

4. The transfer abroad of money and other assets as provided for in Clauses 1, 2 and 3 of this Article shall comply with the provisions of Vietnamese laws.

#### **Article 119.- Other provisions**

The Government shall specify the contents, scopes and areas of operation of foreign-invested insurance enterprises and insurance brokerage enterprises as well as the Vietnam-based representative offices of foreign insurance enterprises or insurance brokerage enterprises.

### **Chapter VII**

#### **STATE MANAGEMENT OVER INSURANCE BUSINESS**

##### **Article 120.- Contents of the State management over insurance business**

The contents of the State management over insurance business shall include:

1. Promulgating and guiding the implementation of, legal documents on insurance business; elaborating strategies, planning, plans and policies on development of insurance market in Vietnam;
2. Granting and withdrawing licenses for establishment and operation of insurance enterprises or insurance brokerage enterprises; licenses for setting up in Vietnam the representative offices of foreign insurance enterprises or insurance brokerage enterprises;
3. Promulgating, ratifying, guiding the implementation of, insurance regulations, terms, premium and commission rate index;
4. Applying necessary measures so that the insurance enterprises ensure the financial requirements and fulfill their commitments to the insurance buyers;
5. Organizing briefings and forecasting the situation on the insurance market;
6. Conducting international cooperation in the insurance domain;
7. Approving the overseas operations of insurance enterprises or insurance brokerage enterprises;
8. Managing the operation of the Vietnam-based representative offices of foreign insurance enterprises or insurance brokerage enterprises;
9. Organizing the training and building up of the contingent of managerial and professional insurance personnel;
10. Inspecting and examining the insurance business activities; settling complaints and denunciations about, and handling violations of the legislation on, insurance business.

##### **Article 121.- State management bodies**

1. The Government shall exercise the uniform State management of insurance business.

2. The Finance Ministry shall take responsibility to the Government for the implementation of State management over the insurance business.

3. The ministries, ministerial-level agencies and agencies attached to the Government shall, within the scope of their respective tasks and powers, exercise the State management over insurance business according to the provisions of law.

4. The Peoples Committees at all levels shall, within the scope of their respective tasks and powers, exercise the State management over insurance business in the localities according to the provisions of law.

**Article 122.- Inspecting the insurance business activities**

1. The inspection of activities of insurance enterprises must be carried out in strict accordance with the functions and competence and in compliance with the law provisions.

The financial inspection shall be carried out for not more than once a year for an enterprise. The maximum inspection duration shall not exceed 30 days; for special cases, the inspection duration may be extended under the decisions of the competent superior bodies, but the extension shall not exceed 30 days.

The irregular inspection may be conducted only when there appear grounds of law offenses by enterprises.

2. When conducting inspections there must be the decisions of competent persons; upon the end of an inspection there must be a record concluding the inspection. The head of the inspection team shall take responsibility for the content of the record and the conclusion on inspection.

3. Those who issue decisions on illegal inspections or take advantage of inspection for self-seeking purposes, harass or trouble the activities of enterprises shall, depending on the seriousness of their violations, be disciplined or examined for penal liability; if causing damage, they must pay compensations to the concerned enterprises according to the provisions of law.

**Chapter VIII**

**COMMENDATION, REWARD AND HANDLING OF VIOLATIONS**

**Article 123.- Commendation and reward**

Organizations and individuals that make merits in insurance business, detecting acts of violating the legislation on insurance business shall be commended and/or rewarded according to the provisions of law.

**Article 124.- Acts of violating the legislation on insurance business**

Acts of violating the legislation on insurance business shall include:

1. Conducting insurance business without establishment and operation licenses or in contravention of the contents of the establishment and operation licenses;
2. Breaching regulations on the granting of establishment and operation licenses, on inspection, examination and supervision, by competent State bodies;
3. Illegal competition;
4. Compelling the conclusion of insurance contracts;

5. Breaching the regulation on compulsory insurance;
6. Breaching the duty to keep secret insurance contract-related information supplied by the insurance buyers;
7. Supplying false information, data and/or report;
8. Conducting business under conditions where the financial requirements are not met, the regulations on legal capital, reserves, collateral, deductions for establishment, management and use of professional reserves are violated;
9. Breaching regulations on capital investment;
10. Other acts of violating the legislation on insurance business.

**Article 125.-** Handling of violations

1. Those who breach the provisions of this Law shall, depending on the nature and seriousness of their violations, be administratively sanctioned or examined for penal liability; if causing damage, they must make compensations therefor according to the provisions of law.
2. Those who abuse their positions and powers and breach the regulations on the granting of establishment and operation licenses, the licenses for setting up of Vietnam-based representative offices of foreign insurance enterprises or insurance brokerage enterprises, on the State management over insurance business and other provisions of this Law, shall, depending on the nature and seriousness of their violations, be disciplined or examined for penal liability; if causing damage, they must make compensations therefor according to the provisions of law.

**Article 126.-** Complaints and lawsuits about decisions on sanctioning administrative violations

1. Organizations and individuals, that are handled for administrative violations, may complain to competent State bodies or initiate lawsuits at courts according to the provisions of law.
2. During the period of complaint or lawsuit, the organizations and individuals, that are handled for administrative violations, shall still have to execute the decisions on handling the administrative violations. Where there are complaint-settling decisions of the competent State bodies or the court's judgments or decisions which have already taken effect, the complaint-settling decisions of the competent State bodies or the court's judgments or decisions shall be complied with.

**Chapter IX**

**IMPLEMENTATION PROVISIONS**

**Article 127.-** Regulations for insurance enterprises, insurance brokerage enterprises, representative offices, which have been established and operating; insurance contracts, which have been concluded, before the effective date of this Law.

1. Insurance enterprises and insurance brokerage enterprises, which have been established and operating under the establishment decisions, establishment licenses, investment licenses, certificates of full eligibility and qualifications for insurance business; and representative offices of foreign insurance enterprises or insurance brokerage enterprises, which have operated under the licenses for setting up the representative offices, granted before the effective date of this Law shall not have to carry out procedures to apply for re-granting of licenses.



2. The insurance contracts which have been concluded before this Law takes effect shall continue to be performed in accordance with the law provisions at the time of concluding the contracts.

**Article 128.-** Implementation effect

1. This Law takes effect as from April 1, 2001.
2. The previous regulations contrary to this Law shall all be annulled.

**Article 129.-** Implementation guidance

The Government shall detail and guide the implementation of this Law.

This Law was passed on December 9, 2000 by the Xth National Assembly of the Socialist Republic of Vietnam at its 8th session.

**NATIONAL ASSEMBLY CHAIRMAN**

**Nong Duc Manh**