

§3408. Home office, records, assets to be in State; exceptions

1. Every domestic insurer shall have and maintain its principal place of business and home office in this State, and shall keep therein accurate and complete accounts and records of its assets, transactions and affairs in accordance with the usual and accepted principles and practices of insurance accounting and record keeping as applicable to the kinds of insurance transacted by the insurer.

[PL 1969, c. 132, §1 (NEW).]

2. Every domestic insurer shall have and maintain its assets in this State, except as to:

A. Real property and personal property appurtenant thereto lawfully owned by the insurer and located outside this State; [RR 2015, c. 1, §29 (COR).]

B. Such property of the insurer as may be customary, necessary and convenient to enable and facilitate the operation of its branch offices located outside this State as referred to in subsection 4; and [PL 1981, c. 501, §46 (AMD).]

C. United States public obligations and other corporate securities for which definitive certificates have not been issued, but are issued through the book-entry systems of federal reserve banks or depository trust companies. Insurers investing in securities in book-entry form shall make available at the time of examination the following:

(1) A copy of the custodial or safekeeping agreement entered into by the insurer and the custodian, a state-chartered bank, a member bank of the federal reserve system or a depository trust company if the deposit was made directly to the entity, which sets forth the provisions for the use of the book-entry securities on behalf of the insurer by the custodian. The agreement shall provide for a standard of responsibility on the part of the custodian which shall be the responsibility of a bailee for hire under the law of the jurisdiction of the custodian's state of domicile. The agreement shall provide that the securities held by the custodian are subject to the instructions of the insurer and may be withdrawn immediately upon demand of the insurer; and

(2) Affidavits evidencing ownership of the book-entry securities signed by a responsible official of the custodian and stating that the custodian is holding the securities for the insurer pursuant to the terms of the custodial agreement. These book-entry securities shall be treated as "admitted assets" of the insurer on production of the affidavit.

The required custodial agreement and affidavit shall conform to such standards as may be prescribed from time to time by the Superintendent of Insurance. [PL 1981, c. 501, §47 (NEW).]
[RR 2015, c. 1, §29 (COR).]

3. No person shall remove all or a material part of the records or assets of a domestic insurer from this State, except pursuant to a plan of merger, consolidation or bulk reinsurance approved by the superintendent under this Title, or for such reasonable purposes and periods of time as may be approved by the superintendent in writing in advance of such removal, or conceal such records or assets or such material part thereof from the superintendent. Any person who removes or attempts to remove such records of assets or such material part thereof from the home office or other place of business or of safekeeping of the insurer in this State with the intent to remove the same from this State, or who conceals or attempts to conceal the same from the superintendent, in violation of this section, shall upon conviction thereof be guilty of a felony, punishable by a fine of not more than \$10,000 or by imprisonment for not more than 5 years, or by both in the discretion of the court. Upon any removal or attempted removal of such records of assets, or upon retention of such records or assets or material part thereof outside this State, beyond the period therefor specified in the superintendent's consent under which the records were so removed thereat, or upon concealment of or attempt to conceal records or assets in violation of this section, the superintendent may institute delinquency proceedings against the insurer pursuant to chapter 57.

[PL 1969, c. 132, §1 (NEW); PL 1973, c. 585, §12 (AMD).]

4. This section shall not be deemed to prohibit or prevent an insurer from:

A. Establishing and maintaining regional home offices or branch offices in other states or countries where necessary or convenient to the transaction of its business, and keeping therein the detailed records and assets customary and necessary for the servicing of its insurance in force and affairs in the territory served by such an office, as long as such records and assets are made readily available at such office for examination by the superintendent at the superintendent's request; [RR 2021, c. 1, Pt. B, §271 (COR).]

B. Having, depositing or transmitting funds and assets of the insurer in or to jurisdictions outside of this State required by the law of such jurisdiction or as reasonably and customarily required or convenient in the regular course of its business. [PL 1969, c. 132, §1 (NEW).]

[RR 2021, c. 1, Pt. B, §271 (COR).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1981, c. 501, §§46,47 (AMD). RR 2015, c. 1, §29 (COR). RR 2021, c. 1, Pt. B, §271 (COR).

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