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**TRANSLATION**  
**(For official purposes, only the Thai text will be relevant)**  
**LIFE INSURANCE ACT B.E. 2535 (1992)**  
**BHUMIBOL ADULYADEJ, REX,**  
**Given on the 4th day of April, B.E. 2535 (1992)**  
**Being the 47th Year of the Present Reign**  
**[Amended by LIFE INSURANCE ACT (No.2) B.E. 2551(2008)]**

By Royal Command of His Most Excellent Majesty, King Bhumibol Adulyadej, it is hereby proclaimed that:

It is deemed expedient to revise the Life Insurance Act.

Therefore, it is enacted by His Majesty the King, by and with the advice and consent of the National Legislative Assembly, as follows:

**Section 1** This Act shall be called the “Life Insurance Act, B.E. 2535 (1992)”

**Section 2** This Act shall come into force on and from the day following the date of its publication in the Royal Gazette.

**Section 3** The Life Assurance Act B.E. 2510 (1967) shall be repealed.

**Section 4** This Act shall not be applied to the undertaking of the life insurance business by the Government Savings Bank, under the Government Savings Bank Act.

**Section 5** In this Act:

“**Company**”<sup>1</sup> means a public limited company that has been licensed to engage in the life insurance business under this Act, and shall include the branch office of a foreign life insurance company, which has been licensed to engage in the Life Insurance Business in the Kingdom, under this Act.

“**Head Office**” includes the branch office of a foreign life insurance company that has obtained a license to engage in the life insurance business in the Kingdom, under this Act.

“**Life Insurance Business**”<sup>2</sup> includes the reinsurance business.  
(The definition of “Capital Fund” was repealed by the Life Insurance Act No. 2)

“**Life Insurance Agent**” means a person who is appointed by a Company to solicit people to enter into a life insurance contract with the Company.

“**Life Insurance Broker**” means a person who, expecting commission, indicates the opportunity or arranges for a person to enter into a life insurance contract with a Company.

“**Commission**”<sup>3</sup> means the Insurance Commission.

“**Fund**”<sup>4</sup> means the life insurance fund.

“**Competent Officer**” means a person appointed by the Minister to act in accordance with this Act.

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<sup>1</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>2</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>3</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>4</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

**"Registrar"**<sup>5</sup> means the Secretary-General of the Insurance Commission, or his designated person.

**"The Minister"** means the Minister in charge of the enforcement of this Act.

**Section 6**<sup>6</sup> The Minister of Finance shall have the care and charge of the execution of this Act, and shall be empowered to appoint competent officials, to issue Ministerial Regulations prescribing fee rates, which shall not be in excess of the rates in the Schedule annexed hereto, and determine other activities for the execution of this Act, as well as to issue Notifications by virtue of the provisions of this Act.

The Ministerial Regulations and Notifications shall come into force upon their publication in the Royal Gazette.

## **Chapter I**

### **Company**

**Section 7**<sup>7</sup> The Life Insurance Business may be undertaken only by a public limited company under the Law on Public Limited Companies, and with a license from the Minister, with the approval of the Cabinet.

An application for a license to engage in the Life Insurance Business under the foregoing paragraph shall be lodged by the Company promoters with the Minister. When the Minister, with the approval of the Cabinet, grants approval to engage in the Life Insurance Business, the Company promoters shall incorporate a public limited company, and shall place a security deposit, according to section 20, and maintain a capital fund, according to section 27, within six (6) months of the date of incorporating the public limited company.

When the Minister finds that the applicants have fulfilled their obligations under the second paragraph, a license shall be issued to the public limited company incorporated by them.

If the public limited company is unable to place a security deposit or maintain a capital fund within the prescribed period, the approval to engage in the Life Insurance Business shall be deemed nullified.

The application for, and the issuance of, a license shall be in accordance with the rules, procedures, and conditions prescribed in the Ministerial Regulations. The Minister may also prescribe various conditions in the license.

**Section 8** A foreign life insurance company may establish a branch office for the undertaking of the Life Insurance Business, under this Act, only after a license from the Minister, with the approval of the Cabinet, has been obtained. Such approval may be granted with conditions, as the Minister may prescribe.

The application for and issuance of a license to engage in the Life Insurance Business through the establishment of a branch office of the foreign life insurance company under the first paragraph, shall be in accordance with the rules and procedures in the Ministerial Regulations.

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<sup>5</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>6</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>7</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

A branch office of a foreign life insurance company, that has obtained a license to engage in the Life Insurance Business shall maintain assets in Thailand, in accordance with amounts, types, rules, and conditions prescribed by the Commission in the notifications, The amount of the assets prescribed by the Commission shall not be less than the amount of capital.

The Minister shall grant a license under the provision of the first paragraph only after the Company has placed the security deposit in accordance with section 20, and maintained assets in Thailand in accordance with the third paragraph.

A Company which is a branch office of a foreign Life Insurance Company cannot open a branch office anywhere.

A branch office shall include an office that is separated from a Company's Head Office, no matter what name it goes, and that receives expenditures from the Company, either directly or indirectly. However, this does not include a location used as an information operating unit, a document-keeping place, or a training place, in relation to Company business, which has obtained the Registrar's approval.

**Section 9<sup>8</sup>** The Company's ordinary shares and preference shares shall be in the form of a named certificate, and shall have a registered par value of not more than one hundred bath (Baht 100) per share.

The issuance of preference shares under the foregoing paragraph shall be in accordance with the Law on Public Limited Companies. The Registrar may prescribe the rules, procedures, and conditions for protecting the interests of the insured, provided that those rules, procedures, and conditions are not in conflict with the Law on Public Limited Companies.

**Section 10<sup>9</sup>** Not less than three-fourths (3/4) of the total number directors of the Company must be Thai nationals and more than seventy-five percent (75%) of the total number of its voting shares that have been sold must be held, in aggregate, by persons stipulated under (1) and/or (2) below:

(1) Thai individuals, or non-registered ordinary partnerships, in which all partners are Thai nationals;

(2) juristic persons registered in Thailand and possessing the following characteristics:

(a) having the persons under (1) holding its shares in excess of fifty percent (50%) of the total number of voting shares that have been sold, or

(b) having the persons under (1), or the juristic persons under (2)(a), or the persons under (1) and the juristic persons under (2)(a), holding shares in excess of fifty percent (50%) of the total number of its voting shares that have been sold.

If the Commission deems appropriate, it may permit persons of non-Thai nationality to hold shares, in a proportion of up to forty-nine percent (49%) of the total number of voting shares that have been sold, and permit persons of non-Thai nationality to serve as directors, in an amount exceeding one-fourth (1/4), but less than one-half (1/2), of the total number of directors. In granting such permission, the rules regarding shareholding by persons under the first paragraph shall apply, *mutatis mutandis*.

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<sup>8</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>9</sup> Amended by the Life Insurance Act No. 2, B.E. 2551



In the event the Company's standing or operations are in a condition that might cause damage to the insured or the public, the Minister, upon the recommendation of the Commission, is empowered to grant a relaxation to permit the Company to have shareholders or directors otherwise than as stipulated under the second paragraph. When granting such relaxation, the Minister may also prescribe rules or time conditions for such.

**Section 11** If any person has acquired the shares of any Company, and such acquisition causes the number of shares shareholders to violate section 10 or to not be in compliance with section 12, such person may not hold shares in excess of the prescribed percentage against the Company and the Company shall not pay dividends or any pecuniary benefit on the excess shares to such person or allow such person to exercise voting rights on said shares at a shareholders meeting.

**Section 12** For the purpose of compliance under section 10 and section 11, the Company shall examine its registration of shareholders not less than three (3) months prior to each shareholders meeting and shall inform the Registrar of the result of such examination within the period of time prescribed by the Registrar. If any shareholder is found to hold shares in excess of the percentage prescribed in section 10, the Company shall so notify such person within fifteen (15) days from the date of finding and such person must take steps to rectify this within one (1) month from the date of receipt of notice.

**Section 13** The provisions of section 9, section 10, section 11 and section 12 shall not apply to a Company that is a branch office of a foreign life insurance company, under section 8.

**Section 14**<sup>10</sup> A transfer, or acceptance of transfer, of business, either in whole or in part, or a Company amalgamation, may only be executed between companies.

If any Company wishes to transfer or accept the transfer of a business, either in whole or in part, or to enter into an amalgamation according to the foregoing paragraph, the boards of directors of such companies shall jointly prepare and submit an operating scheme to the Commission. When granting its consent, the Commission may also prescribe any condition deemed appropriate to protect the interests of the insured, or to ensure the stability of business operations.

**Section 14/1**<sup>11</sup> A transfer of business, either in whole or in part, may commence after the consent of the Commission is received, according to section 14, paragraph two. The assignment of rights in such business transfer shall not be subject to the requirement to give notice to a debtor, according to section 306 of the Civil and Commercial Code, provided that such assignment is without prejudice to the debtor's right to set up a defense under section 308, paragraph two, of the Civil and Commercial Code.

In the event the entire business of a Company is transferred, such a transfer shall be deemed valid when the transferor company and the transferee company have complied with the conditions prescribed by the Commission under section 14,

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<sup>10</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>11</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

paragraph two, and shall be considered the revocation of the license to engage in Life Insurance Business issued to the transferor company.

**Section 14/2**<sup>12</sup> An amalgamation of companies shall be in accordance with the law on Public Limited Companies.

An amalgamation of companies under the foregoing paragraph shall be valid when the amalgamating companies have complied with the conditions prescribed by the Commission under section 14, paragraph two. It shall be deemed that the surviving company has been granted approval to engage in the Life Insurance Business, according to section 7, paragraph one.

When the amalgamation is registered, a security deposit is placed according to section 20, and a capital funds are maintained according to section 27, the Minister shall issue a license to the surviving company. Such issuance shall operate as a revocation of the license to engage in the Life Insurance Business, issued to the predecessor company.

**Section 14/3**<sup>13</sup> In a transfer of all or any part of the business of one Company to another Company, or an amalgamation of companies, if the assets to be transferred include any collateral other than the right of mortgage, right of pledge, or right arising from a suretyship, which must pass to the transferee company by virtue of section 305 of the Civil and Commercial Code, such other collateral shall pass to the transferee company or the surviving Company, as the case may be.

**Section 15**<sup>14</sup> Apart from the fees for a license to engage in the Life Insurance Business, the Company must pay an annual fee for the operation of the Life Insurance Business over year except in the year its license is issued.

If any Company fails to pay its annual fee within three (3) months of the end of a calendar year, the Registrar shall issue an order to prohibit such Company from expanding its business, until the fee is fully and correctly paid and the order of prohibition by the Registrar is revoked.

For the purpose of this section, when determining whether an event is an expansion of business under the second paragraph, the provisions in section 27/6, paragraph two, and the penalty in the case of a violation of section 27/6, paragraph one, as provided for under section 94/1, shall apply, *mutatis mutandis*.

**Section 16 (Repealed)**<sup>15</sup>

**Section 17**<sup>16</sup> A Company under section 7 that opens a branch office, relocates its Head Office or branch office, or dissolves its branch office must obtain the permission of the Registrar, wherein the provisions in section 8, paragraph six, shall apply, *mutatis mutandis*.

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<sup>12</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>13</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>14</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>15</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>16</sup> Amended by the Life Insurance Act No. 2, B.E. 2551



Applications for, and the granting of, permission shall be in accordance with the rules, procedures, and conditions prescribed by the Commission.

**Section 18**<sup>17</sup> No person shall act as an insurer by entering into a Life insurance contract with any person, unless he/she has obtained a license to engage in the Life Insurance Business.

No person shall use an insurance policy of a Company, to which he/she is not entitled, in accordance with this Act.

**Section 19** No person shall make use of the name or the description of "life insurance," or any other word or words having the same meaning, except the following persons:

- (1) a Company;
- (2) an association, the majority of whose members are officers or employees of a Company;
- (3) an association, the majority of whose members are Life Insurance Agents or Brokers;
- (4) an Employer's Association or Labor Union, the majority of whose members are officers or employees of a Company;
- (5) A Life Insurance Agent or broker who makes use of the description in his business as an agent or broker, as the case may be;
- (6) a life insurance education institute, or other institute relating to the Life Insurance Business, that makes use of the description in its name; or
- (7) a director, officer, employee, member, or a person having any status, position, or duty in a Company, association, labor union, institute of life insurance education, or other institute relation to the Life Insurance Business, under (1), (2), (3), (4) and (6) who use such description so to show their status.

The use of a name, or an expression of a name, in the business of a Life Insurance Agent or Life Insurance Broker under (5) shall be in accordance with the rules, procedures, and conditions prescribed by the Registrar.<sup>18</sup>

**Section 20** The Company shall place securities with the Registrar, as a security deposit by the Registrar, in the value prescribed by the registrar in the Ministerial Regulations.

The securities of the Company, required to be placed with the Registrar, may be in cash, Thai government bonds, or any other assets, as may be prescribed by the Commission in the notifications.

The Company may ask for permission to change the security deposit placed, subject to the provisions of the first and second paragraph.

**Section 21** In the event the value of the security deposit of any Company is lower than that prescribed in accordance with the Ministerial Regulations issued under section 20, the Commission may order such Company to deposit an additional security, up to the amount prescribed, within two (2) months from the date of receipt of the order.

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<sup>17</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>18</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

**Section 22** In the event the value of the security deposit of any Company increases higher than that prescribed in accordance with the Ministerial Regulations issued under section 20, the Commission may order the release of the portion of the security deposit which is in excess of the amount prescribed, upon the request of the Company, provided it is able to prove the excessive value.

**Section 23**<sup>19</sup> Companies shall allocate premiums to an insurance reserve, for the insurance policies that remain binding, and other reserves as prescribed by the Commission.

The reserves under the foregoing paragraph may be in cash, Thai government bonds, or other property, in accordance with the rules, procedures, conditions, and ratios prescribed by the Commission.

**Section 24**<sup>20</sup> The Commission is empowered to require a Company to place no more than twenty-five percent of the amount of the reserves required under section 23 with the Registrar.

The placement of the reserves under the foregoing paragraph shall be in accordance with the rules, procedures, and conditions prescribed by the Commission. The provisions in section 21 and section 22 shall apply, *mutatis mutandis*.

**Section 25** In the event the security deposit placed with the Registrar by the Company under section 20 and the reserve placed with the Registrar under section 24 are the asset of which transfer or acquisition are required to register with the official under the law or executed with the third party which involves in transfer or acquisition of the said asset, the Registrar shall notify the Competent Officer or the person concerned in writing and no official or the persons shall transfer or dispose the said asset until the Registrar has notified of revocation or change in the said asset in writing.

**Section 26** The security deposit under section 20 and the reserve under section 23, placed by Company with the Registrar under section 24, are not subject to execution during a period for which the company has not yet dissolved.

In the event a Company dissolves, creditors having the right to receive payment of debts from insurance shall have preferential rights on the assets placed as a security deposit under section 20 and reserve under section 23, placed with the Registrar under section 24, and shall have the right to receive payment from said assets prior to any other creditors having other preferential rights.

In the event a Company goes bankrupt, creditors having the right to receive payment of debts from insurance shall have preferential rights on the assets placed as a security deposit under section 20 and reserve under section 23, placed with the Registrar under section 24, and shall have the same right to receive payment from said assets, as a secured creditor under the bankruptcy laws.

A creditor having the right to receive payment of debts from insurance shall have the right to receive payment from the Company's assets, apart from the assets placed as a security deposit under section 20 and reserve under section 23, placed

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<sup>19</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>20</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

with the Registrar under section 24, like a holder of preferential rights, on account of tax under the Civil and Commercial Code.

## **Chapter I/1<sup>21</sup>**

### **Maintenance of Capital Funds and Liquid Assets**

**Section 27<sup>22</sup>** The Commission shall be empowered to prescribe the types and categories of capital funds, including the rules, conditions, and procedures for the computation of a Company's capital funds.

A Company must maintain capital funds throughout the period of its Life Insurance Business operations, in proportion to its assets, liabilities, obligations, or risks, at the rate prescribed by the Commission.

The Commission shall determine the maintenance rate of the capital funds rate, in accordance with each or all types and categories of assets, liabilities, obligations, or risks.

In the event that a Company repurchase shares under the law on public limited companies, none of such shares shall be counted as part of the capital funds. Capital funds shall be deducted in accordance with the rules, procedures, and conditions prescribed by the Commission.

A Company is prohibited from using its capital funds to incur any obligation, subject to the rules, procedures, and conditions prescribed by the Commission.

**Section 27/1<sup>23</sup>** A Company shall maintain its liquid assets in proportion with its assets, liabilities, obligations, or reserve under section 23, at not less than the rate prescribed by the Commission.

The Commission, in determining the maintenance rate for liquid assets under the foregoing paragraph, may determine such maintenance rate for certain types or all types of liquid assets, or may determine the proportion of each type thereof at any rate.

If a liquid assets maintenance rate that the Commission has determined under this section increases, such increase shall be announced at least sixty (60) days prior to the effective date.

**Section 27/2<sup>24</sup>** Liquid assets include:

- (1) cash or deposits at banks, in accordance with the rules, procedures, and conditions prescribed by the Commission;
- (2) Thai government securities or Bank of Thailand securities;
- (3) debentures or bonds, for which the Ministry of Finance, the Bank of Thailand, or the Financial Institutions Development Fund has guaranteed their principal and interest; or

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<sup>21</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>22</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>23</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>24</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

(4) other assets, in accordance with the rules, procedures, and conditions prescribed by the Commission.

The liquid assets under (2), (3), and (4) above shall be negotiable and free from any obligation.

**Section 27/3<sup>25</sup>** A Company shall manage its assets, liabilities, obligations, and reserves under section 23 to be consistent with the period of receipt of insurance premiums, receipt of payments from the 21 Amended by the Life Insurance Act No. 2, B.E. 2551 insured or the public, or the period of borrowing, in accordance with the rules, procedures, and conditions prescribed by the Commission.

**Section 27/4<sup>26</sup>** A Company shall allocate its assets for liabilities and obligations under life insurance contracts, in accordance with the types, categories, and ratios prescribed by the Commission.

A Company shall deposit reserves under section 23, except for the portion placed with the Registrar under section 24 and assets under the foregoing paragraph, with financial institutions, or manage them in accordance with the rules, procedures, and conditions prescribed by the Commission.

A Company is not permitted to use the assets under paragraph two to incur obligations, subject to the rules, procedures, and conditions prescribed by the Commission.

**Section 27/5<sup>27</sup>** A Company shall have a capital funds maintenance report proposal and presented to the Registrar every month, in accordance with the rules, procedures, and conditions prescribed by the Commission.

In the event that the capital funds of any Company are reduced to less than the capital funds level required to be maintained under section 27, paragraph two, the Company shall propose a scheme to revive the condition of its capital funds, within 30 days of the receipt of notice by the Registrar, or the detection of such condition by the auditor or the Company.

A scheme under section 27, paragraph two, shall consist of at least the following particulars:

- (1) steps to increase capital funds to reach a sufficient amount;
- (2) the capital fund level anticipated to be maintained in each quarter, throughout the period of the scheme;
- (3) the description of the business to be carried out; and
- (4) the period of the scheme shall not exceed one (1) year.

The Registrar shall review the scheme and give notice of his consideration to the Company within thirty (30) days of the receipt of the scheme. The Registrar may also prescribe conditions or time conditions in his consent.

In the event the Registrar rejects the scheme, or a Company disagrees with the conditions or time conditions determined by the Registrar, the Company shall have the right to appeal to the Commission within thirty (30) days of the receipt of notice. The Commission shall completely review the appeal within sixty (60) days of the receipt of the appeal.

<sup>25</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>26</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>27</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

A decision of the Commission shall be final.

**Section 27/6<sup>28</sup>** While executing the approved scheme under section 27/5, a Company may carry out its normal business, but may not expand its business until the Company is able to maintain its capital funds in accordance with section 27, paragraph two.

To expand a business under the foregoing paragraph means:

- (1) to accept new insurance, or to expand the insured amount of the existing insurance policies;
- (2) to increase risks of investments in other businesses of the Company;
- (3) to incur additional obligations, except as required by the existing obligations;
- (4) to enter into contract to appoint an additional Life Insurance Agent or Broker; or
- (5) to receive a transfer of business from another Company.

The Registrar shall determine and announce those cases which represent an increase of risk under (2) or those cases which represent the incurrence of additional obligations under (3).

**Section 27/7<sup>29</sup>** The Registrar shall consider carrying out the acts stated in section 53 if any of the following events occurs:

- (1) a Company fails to propose a scheme under section 27/5 to the Registrar, within the specified time;
- (2) a Company fails to carry out activities under the scheme, or carries out activities not in accordance with the approved scheme under section 27/5, in accordance with the conditions or time conditions prescribed by the Registrar;
- (3) a scheme proposed under section 27/5 is rejected and the Company fails to appeal such rejection within the specified time, or the Commission makes a decision to dismiss such appeal.

## **Chapter II**

### **Supervision of Companies**

**Section 28** Apart from life insurance, a Company may invest in only businesses prescribed by the Commission in the notifications. The Commission may prescribe conditions for said business, to be conducted by the Company.

**Section 29** Insurance policies, including related documents and endorsements, shall be in the form and the texts as approved by the Registrar.

The Registrar may order, in his discretion or upon application by a Company, to change, amend, add, or repeal the forms and texts partially or wholly, as already approved by the Registrar under the first paragraph.

In the event a Company issues an insurance policy which differs in form or text from that which has been approved by the Registrar under the first or second paragraph, the insured shall have the option of holding the Company liable under the

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<sup>28</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>29</sup> Amended by the Life Insurance Act No. 2, B.E. 2551



insurance policy, as issued by the Company or as approved by the Registrar. The Company shall not be released from liability as stated in this Act, whether or not the insured exercise such rights.

In the event a Company issues an insurance policy which was not approved by the Registrar under paragraph one or paragraph two, the insured shall have the option of holding the Company liable under the insurance policy or terminating the life insurance contract, and having the Company return the premiums paid to the Company. Whether or not the insured or beneficiary exercises said right, the Company shall not be released from liability, as stated in this Act.

**Section 30** The premium rates prescribed by the Company shall be approved by the Registrar.

The Registrar may, in his discretion or upon application by a Company, order such rates as approved by the Registrar changed, provided that any change in the rate shall not affect insurance policies for which premium rates have already been approved by the Registrar.

**Section 30/1<sup>30</sup>** The text of or pictures in an advertisement or prospectus shall be deemed an integral part of the insurance policy. If any text or picture contains a meaning in conflict with the insurance policy, it shall be interpreted in a way that is favorable to the insured or the beneficiary of the insurance policy, as the case may be.

An Life insurance agent is not allowed to use any text or picture of an advertisement or prospectus that has not been approved by the Company to solicit a person to enter into a Life insurance contract.

**Section 31** No Company shall issue an insurance policy that states the amount payable to the insured or beneficiary in a foreign currency.

**Section 32** A Company shall obtain the approval of the Registrar for its calculation of profits, whether there is profit or not, and the amount of profits, for the purpose of paying dividends to shareholders.

**Section 33** No Company shall:

- (1) engage in the non-life insurance business;
- (2) reduce its capital without written permission of the Registrar, with the approval of the Commission;
- (3) deposit money elsewhere than in banks, finance companies, or finance and securities companies;
- (4) keep cash anywhere except at the office of the Company;
- (5) pay any money or property to a director, manager, advisor, officer, or employee of the Company as commission or remuneration for or in connection with any transaction or any act, other than gratuities, salaries, bonuses, or money which may normally be paid to them;
- (6) pay any money or property to Life Insurance Agents or Brokers, apart from wages or commission which may normally be paid to them;
- (7) advance money or property to any person as commission or remuneration for work to be done for the Company;

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<sup>30</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

(8) pay commission to a person who assists in obtaining an insurance contract, but who is not a Life Insurance Agent or Broker of the Company;

(9) buy or hold immovable property, except:

(a) those for use as premises for the business of the Company, or for the welfare of officers and employees of the Company, as may be reasonable;

(b) those for use for investment in other businesses, as prescribed by the Commission under section 28; or

(c) those acquired by the Company as a result of a debt settlement or enforcement of mortgage. The purchase or possession of immovable property under (a) or (b) or the acquisition of immovable property as a result of a debt settlement under (c) requires the written approval of the Registrar. Such approval may be granted with any condition as the Registrar may prescribe;

(10) give special benefits to insureds or beneficiaries under an insurance policy, in addition to those specified in the insurance policy;

(11) accept from the insured a payment of premiums in an amount less than the amount payable;

(12) appoint or authorize persons other than Life Insurance Agents, Life Insurance Brokers, or officers of the Company who have duties concerning receipt of money, as a receiver of premium payments;

(13) issue an insurance policy without the signature of an authorized director(s) to bind the Company and without the Company seal, as registered, affixed, or without the signature of the branch manager of a foreign life insurance company, as shown in the license to engage in the Life Insurance Business, and without the seal affixed, as the case may be;

(14) advertise the Company or its Life Insurance Business in a false or exaggerated manner;

(15) appoint or assign persons other than Life Insurance Agents of the Company to induce or procure persons to enter into life insurance contracts with the Company, except for the acts of directors, officers, or employees of the Company, for and on behalf of the Company; or

(16)<sup>31</sup> sell or give any immovable property or movable property, with an aggregate value exceeding the amount prescribed by the Registrar, to any of its directors, or purchase assets from any of its directors, including a person related to any of its directors, as announced by the Commission, except with the consent of the board of directors of the Company and the approval of the Registrar.

**Section 34**<sup>32</sup> The Company shall dispose of immovable property, vested to the Company under section 33(9), in the following events:

(1) those maintained by the Company for use as the premises of the business of the Company, or for the welfare of officers or employees of the Company, or for investment in other businesses under sections 33(9)(a) or (b), and not used, shall be disposed of within five (5) years from the cessation of use;

(2) those acquired by the Company as a result of a debt settlement or foreclosure under section 33(9)(c) shall be disposed of within five (5) years of the acquisition, unless the approval of the Registrar is obtained to maintain them for an activity under section 33(9)(a) or (b).

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<sup>31</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>32</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

The Registrar may extend the period under (1) and (2) above, in accordance with the period prescribed by the Commission. The Registrar may also prescribe conditions for the extension of such period.

**Section 35<sup>33</sup>** A director, manager, or person authorized to act on behalf of the Company, or a consultant to the Company, shall hold a bachelor's degree or higher qualification, or shall have work experience in relation to an insurance business, and shall not have any of the following qualifications:

- (1) is, or has been, declared bankrupt;
- (2) has been imprisoned by a final court judgment, for an offense relating to property;
- (3) has been a director, manager, or person authorized to act on behalf of a Company at the time such Company had its life or non-life insurance license revoked, except for a person whom the Registrar, with the approval of the Commission, appointed to hold such office at such time.
- (4) is a director, manager, or person authorized to act on behalf of another Company licensed to engage in the Life Insurance Business, unless an exception in accordance with the rules and conditions prescribed by the Commission has been granted;
- (5) is removed from the position of director, manager, or person authorized to act on behalf of a Company, under section 54;
- (6) is a political official or a person holding a political office;
- (7) is a government official or an officer of the Office of the Insurance Commission, having a responsibility to supervise the Company, unless the Company is a public enterprise or the appointment is made with the approval of the Commission, for the purpose of assisting in the operations of the Company, or the person is appointed under section 54; or
- (8) has a bad record or carries out any activity showing a lack of responsibility or due care that a person of such profession is supposed to have in his conduct.

**Section 36<sup>34</sup>** Subject to section 71, no Company shall appoint or assign any person to accept life insurance using a non-life insurance policy of the Company.

No Company shall appoint or assign any person to compensate claims under an insurance policy, wholly or partly, except for reinsurance, unless permission is granted by the Registrar.

**Section 37** No Company shall delay, without sufficient reason, payment of any sum or a return of premiums paid to an insured or a beneficiary under an insurance policy, or make a payment or return in bad faith.

Any act or performance of the Company that is deemed to contravene the provision of the first paragraph shall be in accordance with rules, procedures, and period prescribed by the Minister.

**Section 37/1<sup>35</sup>** If any grievance relating to insurance, payment of compensation, monetary compensation, or other benefits under an insurance policy is made, the Registrar may have such grievance reviewed and arrange for resolution.

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<sup>33</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>34</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

**Section 38**<sup>36</sup> Subject to the provisions of this Act, the Commission shall have the power to prescribe rules, procedures, and conditions for the Company to observe, in regard to the following:

- (1) collection of premiums;
- (2) appraisal of the value of assets and liabilities of the Company;
- (3) reinsurance;
- (4) classification of categories of expenses;
- (5) method for issuing and offering for sale of an insurance policy, surrender value rates of the insurance policy, full payment value of the insurance policy, extension of payment period, and conditions of payment thereof;
- (6) wage or commission rates for Life Insurance Agents or Brokers;
- (7) forms, size, lettering, language, and content of documents showing receipt of money by the Company;
- (8) lending of money, with an insurance policy placed as security;
- (9) distribution of dividends to insureds in instalments;
- (10) types and maximum rates of insurance expenses;
- (11) receipt of money and payments, audits and internal controls;
- (12) compensation under life insurance contracts; and
- (13) minimum standards for the Company's risk management system.

**Section 39** Companies shall open their offices for public business on the dates and at the times prescribed by the Registrar. However, a Company may keep its office open for longer than prescribed.

**Section 40** Companies shall keep registers and account books concerning their business, in accordance with the forms and particulars prescribed by the Registrar. Particulars of events concerning business, which are required to be entered in the registers and account books of the Company, shall be so entered by the Company not later than seven (7) days from the occurrence of the event.

**Section 41** The registers and account books under section 40 shall be kept by a Company at its office for not less than ten (10) years from the date of the last entry in such book or from the date which the Company is released from the liability, under the last entry of liability, whichever period is longer.

**Section 42** An interested person may inspect the registers under section 40, only in regard to particulars with which he is concerned or may request that the Company provide a certified copy of said particulars, provided that he pays the fee prescribed by the Registrar.

**Section 43**<sup>37</sup> Companies shall prepare and submit to the Commission the following financial statements and reports on operating results:

- (1) audited quarterly financial statements;

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<sup>35</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>36</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>37</sup> Amended by the Life Insurance Act No. 2, B.E. 2551



(2) audited financial statements for the last calendar year, with opinions as expressed by the auditor; and

(3) annual reports, showing the operating performance of the Company.

The preparation and submission of the financial statements and reports under the foregoing paragraph shall be in accordance with the rules, procedures, conditions, and periods prescribed by the Commission. The auditor shall be a certified auditor under the law on accounting professions.

A Company which is a branch office of a foreign life insurance company shall fulfil the obligations stated in paragraphs one and two, and shall submit an annual report of the foreign life insurance company of which it is a branch within five (5) months from the end of the accounting year of the foreign life insurance company.

**Section 44** If it appears that an annual report submitted by a Company under first paragraph of section 43 is incorrect or incomplete, the Registrar shall have the power to order the Company to rectify or complete the report, within the period prescribed by the Registrar.

If the Company fails to comply as ordered in the first paragraph, the Company shall be deemed to have not submitted an annual report under section 43.

**Section 45**<sup>38</sup> The Commission shall have the power to order a Company to submit any documents or reports on the operation of its Life Insurance Business.

The Commission may also order the Company to explain or clarify the content of said reports or documents.

**Section 46**<sup>39</sup> Companies shall publish their balance sheets and statements of income, in the form prescribed by the Commission, within fifteen (15) days from the date of submission of the financial statements under section 43(2), in at least one mass-circulation daily newspaper, for no less than three (3) days. Each Company shall also post such notice in a conspicuous place at the Head Office and branch office of the Company, for at least one (1) month.

**Section 46/1**<sup>40</sup> For the purpose of giving public access to information regarding the financial standing and operating results of a Company, the Registrar shall have the power to order the Company to divulge such information, in accordance with the rules, procedures, and conditions prescribed by the Commission.

**Section 47**<sup>41</sup> Companies shall submit to the Commission annual reports of the calculation of liabilities under the insurance policies, certified by an actuary, in the form, rules, procedures, conditions, and period prescribed by the Commission.

**Section 48** The Registrar and the Competent Officer shall have the power to examine the business activities and financial conditions of Companies and, for the

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<sup>38</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>39</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>40</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>41</sup> Amended by the Life Insurance Act No. 2, B.E. 2551



purpose of examination, the Registrar and the Competent Officer shall have the power:

(1) to enter into the office of a Company, during working hours, to obtain information and in so doing they shall have the power to call for documents or other evidence from directors, managers, consultants, officers, or employees of the Company and to question said persons;

(2) to enter into the business place of the Company or any premises where it is suspected that account books, documents, seals, or any other documents concerning the Company's business, property, or debts are kept, during working hours or between sunrise and sunset, to inspect or evaluate the property of the Company;

(3) to order the Company or persons concerned with the Company's business to deliver documents or other evidence; and

(4) to summon the persons mentioned in (1) or (3) to give statements or to order said persons to submit statements of fact, as required.

The persons concerned shall provide convenience to the Registrar and the Competent Officer in their performance under the first paragraph.

**Section 49** In the performance of his duty, the Registrar and the Competent Officer shall produce their identification cards, in accordance with the forms prescribed by Ministerial Regulations, upon request by the person concerned.

**Section 50** Any interested persons may, upon submitting to the Registrar an application in the form prescribed, inspect the register book and related documents kept by the Registrar and request copies certified or uncertified by the Registrar.

**Section 51**<sup>42</sup> Any Company wishing to discontinue its Life Insurance Business shall file an application for permission to do so with the Commission.

To protect the interests of insureds, beneficiaries, or interested persons, the Commission shall have the power to determine at least the following rules, procedures, conditions, and period to be fulfilled by the Company, before permission for business discontinuation is granted:

(1) method for managing or transferring the obligations under insurance policies that remain binding;

(2) method for notifying insureds, beneficiaries, and interested persons to exercise their rights under law;

(3) transfer or request for receipt of the reserve under section 23, placed by the Company with the Registrar under section 24;

(4) management of the portion of assets and liabilities in connection with the Life Insurance Business and the business permitted to be carried out under section 28;

(5) period for execution of the transactions under (1), (2), (3), and (4).

If the Commission permits the Company to discontinue its Life Insurance Business and the Company intends to dissolve, the dissolution shall take effect as from the receipt of permission for discontinuation. The Company shall then proceed to go into liquidation. If a Company does not intend to dissolve, the Company shall have its Memorandum of Association amended, changing its name and objectives, so that they will not be related to the Life Insurance Business.

Liquidation and amendments to the Memorandum of Association shall be carried out in accordance with the law on public limited companies.

<sup>42</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

If a Company that is a branch office of a foreign life insurance company discontinues its business, such Company shall go into liquidation, wherein the provisions of sections 65, 66, and 67 shall apply, *mutatis mutandis*.

**Section 51/1<sup>43</sup>** Subject to section 26, paragraphs two and three, a Company obtaining permission to discontinue its Life Insurance Business shall surrender to the Registrar its Life Insurance Business license, and shall submit an application for the return of the security deposit placed by the Company under section 20.

**Section 52** Any proceeds to which an insured or beneficiary is due under an insurance policy, if unclaimed against the Company until the lapse of the period of prescription, shall be sent to the Fund by the Company within one (1) month from the end of such period of prescription.

**Section 53<sup>44</sup>** Where any event under section 27/7 occurs, or where evidence suggests to the Registrar that a Company is of a condition, or operates its business in such a way, as may cause damage to the insured or the public, the Registrar, with the approval of the Commission, shall have the power to order such Company to improve its condition or operations, within the time specified by the Registrar. In such case, the Registrar may also order the Company to increase or reduce its capital to comply with section 27, paragraph two.

If any Company fails to increase or reduce its capital within the period of time prescribed by the Registrar under the foregoing paragraph, the Registrar's order shall be deemed to be a resolution of the Company's shareholders meeting, as of the expiry of the prescribed period.

Where there is an urgent need for a Company to increase or reduce its capital, in order to support its condition and carry on its business, the Registrar, with the approval of the Commission, may order the Company to immediately increase or reduce its capital. Such an order is deemed to be a resolution of the shareholders meeting.

The provisions of section 136, paragraph two (2), section 139, and section 141 of the Public Limited Companies Act B.E. 2535 (1992) shall not apply to the increase or reduction of capital under paragraphs two and three herein.

**Section 54** Where there is evidence appearing to the Registrar that the condition or operation of any Company is such that damage may be caused to the insured and the public, or where the directors, managers, or persons responsible for the operation of any Company fail to comply with the order of the Registrar under section 53, the Registrar shall have the power to order such Company to remove its directors, managers, or persons responsible for its operation, who have caused such condition or operation of the Company.

If the Registrar orders the removal of any person under the first paragraph, the Company shall, with the Registrar's consent, appoint other persons to replace the persons so removed, within one (1) month from the date of removal.

Where a Company fails to remove such persons under the first paragraph, or removes but fails to appoint other persons in their place under the second paragraph, the Registrar, with the consent of the Minister, shall have the power to issue an order of removal for such persons or to appoint any person(s) to replace the person so

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<sup>43</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>44</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

removed, for a period not longer than three (3) years. The provision of section 35(4) shall not apply hereto.

The person so appointed shall be entitled to remuneration, to be paid from the assets of the Company, as prescribed by the Minister. During the period that the person so appointed holds office, shareholders of the Company shall not pass a resolution to revoke or change the order of the Registrar.

The person removed by the order of the Registrar shall no longer be involved in or manage, directly or indirectly, any affairs of the Company.

The order of removal or appointment issued by the Registrar under this section shall be deemed to be a resolution of the shareholders meeting.

**Section 55** In the event the Registrar has given an order under section 53 or section 54, but the financial conditions and operations of the Company are not improved, the Minister may issue an order to control the Company or revoke the Company's license to engage in business.

**Section 56** If a Company has been placed under control, the Registrar shall notify the Company, in writing, to that effect. Copies of such order shall be posted in the Royal Gazette and in at least two daily newspapers, in the locale of the Head Office of the Company.

**Section 57** If a Company has been placed under control, the Minister shall appoint a Control Committee, consisting of a chairman and not less than two other members, with the power and duty to manage the affairs of the Company in all respects, and the chairman of the Committee shall be the representative of that Company. The provision in section 35(4) shall not apply.

In the event that the chairman of the Committee is unable to perform his duty, the Minister shall appoint any committee member to act in his stead.

The Committee shall have the power to appoint directors, officers, and employees of the Company, under the control of one or several persons, to perform any duty of the Company.

The appointment of such Committee and the appointment of a member to act in place of the chairman shall be published in the Royal Gazette.

**Section 58** If a Company has been placed under control, no directors or officers of the Company shall operate the business, unless they have been appointed by the Control Committee.

**Section 59** If a Company has been placed under control, the directors, officers, and employees of the Company shall take proper action in order to safeguard the Company's property and interests and shall promptly report its affairs and deliver, without delay, its property, together with books of accounts, documents, seals, and other evidence relating to its affairs and assets, to the Control Committee.

**Section 60** The Control Committee shall have the power to order any person to testify or to produce or deliver books of accounts, documents, seals, or other evidence relating to the affairs and assets of the Company placed under control.

**Section 61** If the Control Committee considers that a Company under control is able to continue its business operations, the committee shall notify the Minister to

that effect. The Minister shall then, if he deems appropriate, order that the control of the Company be revoked. The Registrar shall inform the Company to that effect and publish such order in the Royal Gazette and in at least two daily newspapers in the locale of the Head Office of the Company.

**Section 62** If the Control Committee considers that a Company under control is unable to continue its business operations, and has a reason to withdraw the license to engage in the Life Insurance Business under section 64, the Committee shall notify the Minister to that effect. The Minister shall then, if he deems appropriate, order the withdrawal of the license to engage in the Life Insurance Business under section 64.

**Section 63** The Control Committee may receive remuneration as prescribed by the Minister and such remuneration shall be paid from the assets of the Company.

### **Chapter III**

#### **Revocation of Licenses to Engage in the Life Insurance Business**

**Section 64** The Minister shall have the power to revoke a license to engage in the Life Insurance Business, where there is evidence that suggests to the Minister that a Company:

(1) has liabilities in excess of its assets or has such an unstable financial condition that damage may be caused to insureds or the public;

(2) violates the provisions of this Act or the Ministerial Regulations, conditions as prescribed by the Minister, or notifications issued or prescribed in accordance with this Act, or fails to comply with an order of the Minister, Registrar, or Competent Officer, given in accordance with this Act, provided that such violation or failure may cause damage to insureds or the public;

(3) has ceased engaging in the Life Insurance Business, for no reason;

(4) has delayed payment of the claim or delayed a return of premiums to be paid or returned, without any reason, or paid a claim or returned a premium in bad faith;

(5) if continuing to engage in the Life Insurance Business, may cause damage to insureds or the public.

**Section 65** Where a Company's license to engage in the Life Insurance Business has been revoked, such Company shall be dissolved, as of the date of revocation of the license, and shall be liquidated. The Minister shall appoint a liquidator therefore. The power and duty of the general meeting shall be the power and duty of the Registrar.

**Section 66** For the purpose of liquidation, a Company which is a branch office of foreign life insurance company shall be deemed a limited company and, for such purpose, the Registrar and the Office of Insurance Commission shall be the corporate registrar or Company Registration Office under the Civil and Commercial Code, as the case may be, and reports to be submitted to the general meeting of shareholders shall be submitted to the Registrar, provided that they shall not prejudice any claim against said foreign insurance company.



**Section 67** A liquidator appointed by the Minister under section 65 may receive such remuneration as prescribed by the Minister and such remuneration shall be paid from the assets of the Company.

#### **Chapter IV** **Life Insurance Agents and Brokers**

**Section 68**<sup>45</sup> No person shall act as a Life Insurance Agent or Broker unless he obtains a license from the Registrar.

The application for a license shall be in the form prescribed by the Registrar.

A Life Insurance Agent's license shall indicate the Company for which the Life Insurance Agent works.

**Section 69** An applicant for a Life Insurance Agent's license shall have the following qualifications:

- (1) be *sui juris*;
- (2) be domiciled in Thailand;
- (3) not be adjudged incompetent or quasi incompetent;
- (4) never have been sentenced to imprisonment upon final judgment, for offences relating to property committed dishonestly unless the sentence was completed at least five (5) years prior to the date of application;
- (5)<sup>46</sup> not be bankrupt;
- (6) not be a Life Insurance Broker;
- (7)<sup>47</sup> not have had a Life Insurance Agent's or Broker's license revoked within the five (5) years prior to the date of application for a license;
- (8) have studied the Life Insurance Business at an institute prescribed by the Registrar, or have passed an examination concerning life insurance knowledge, in accordance with the subjects and procedures prescribed by the Registrar in the notification.

**Section 70**<sup>48</sup> A person qualified under section 69 who wishes to be a Life Insurance Agent of any Company shall submit to the Registrar an application for a insurance agent's license for such Company, together with a letter from the Company expressing its intention to have such person be its Life Insurance Agent, as well as a certificate confirming that such person satisfactorily passed a training program organized by the Office of the Insurance Commission, or other training under the program or procedures prescribed by the Office of the Insurance Commission.

Applications for and the issuance of licenses shall be in accordance with the rules, procedures, and conditions prescribed by the Commission.

A Life Insurance Agent for one Company may apply for a license to be a Life Insurance Agent for another Company. Such application shall be accompanied by a letter of consent from the Company for which the applicant is already a Life Insurance Agent, together with a letter from the new Company, stating its intentions. The letter shall also mention that the new Company knows that the applicant is already an agent

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<sup>45</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>46</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>47</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>48</sup> Amended by the Life Insurance Act No. 2, B.E. 2551



of another Company. After issuing the license, the Registrar shall notify the companies concerned.

The letter of intention under the first paragraph and the letter of consent under the third paragraph shall be in the forms prescribed by the Registrar.

**Section 70/1<sup>49</sup>** A Company shall be jointly liable with its Life Insurance Agent for the damages which such agent causes when acting as a Life Insurance Agent for such Company.

**Section 70/2<sup>50</sup>** When performing the duties of or acting as a Life Insurance Agent, the Life Insurance Agent shall not give any false information or conceal any fact which ought to be clarified. A Life Insurance Agent shall comply with the rules, procedures, and conditions prescribed by the Commission.

A Life Insurance Agent's failure to comply with the foregoing paragraph shall not impair the rights of insureds, beneficiaries, or related persons.

**Section 71<sup>51</sup>** A Life Insurance Agent shall be entitled to receive an insurance premium on behalf of the Company.

A Life Insurance Agent may enter into a life insurance contract on behalf of the Company, upon being authorized by the Company's Power of Attorney.

Either a Life Insurance Broker or a Company employee, whose responsibility it is to receive money, may receive insurance premiums on behalf of the Company, upon the receipt of the Company's Power of Attorney.

The Powers of Attorney of the Company under paragraphs two and three above shall be in the form prescribed by the Registrar.

No right of the insured, the beneficiary or the related person shall be impaired even the Powers of Attorney of the Company are not in the form as prescribed by the Registrar.

**Section 71/1<sup>52</sup>** A Life Insurance Agent shall present his license each time he solicits a person to execute a life insurance contract or when he receives insurance premiums on behalf of the Company.

A Life Insurance Agent shall issue a document evidencing the Company's receipt of payment, upon the receipt of premiums on behalf of the Company.

**Section 71/2<sup>53</sup>** A Life Insurance Broker or an employee of the Company shall present a Power of Attorney of the Company upon each receipt of premiums on behalf of the Company.

A Life Insurance Broker or an employee of the Company shall issue a document evidencing the Company's receipt of payment, upon each receipt of premiums on behalf of the Company.

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<sup>49</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>50</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>51</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>52</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>53</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

The provisions of the first paragraph shall not apply to an employee of the Company who performs his duty in receiving premiums at the office of the Company.

**Section 72** A natural person who applies for a Life Insurance Broker's license cannot be a Life Insurance Agent or a director, a manager, officer, or employee of any Company, and the provisions of sections 69(1), (2), (3), (4), (5), (7), and (8) shall apply, *mutatis mutandis*.

A juristic person may apply for a Life Insurance Broker's license if:

- (1) such juristic person has its Head Office in Thailand;
- (2) such business is within the scope of business of such juristic person;
- (3) such juristic person has officers or employees licensed to be Life Insurance Brokers under this Act; and
- (4)<sup>54</sup> such juristic person has never had a Life Insurance Broker's license revoked, within the five (5) years prior to the date of application.

**Section 73** A natural person or juristic person who is qualified under section 72 and wishes to be a Life Insurance Broker shall submit an application for a license to the Registrar.

The issuance of a Life Insurance Broker's license to a juristic person shall be in accordance with the rules and conditions prescribed by the Registrar.

The application for license and the license under this section shall be in the forms prescribed by the Registrar.

**Section 74** A Life Insurance Broker shall have an office, as indicated on the application for a license to be a Life Insurance Broker. If such office is relocated, the Life Insurance Broker shall notify the Registrar in writing of such change with five (5) days from the date of change.

**Section 75** A Life Insurance Broker shall prepare the registers, account books, and documents concerning the business of a Life Insurance Broker, in the form and particulars prescribed by the Registrar.

A Life Insurance Broker shall record the events which are required to be recorded in the registers, account books, and documents under the first paragraph, within seven (7) days from the occurrence of the event.

**Section 76** A Life Insurance Broker shall keep the registers, account books, and documents concerning business of a Life Insurance Broker, including attachments thereto, at his office for not less than five (5) years from the date the last record was entered in the registers or account books.

**Section 77**<sup>55</sup> Life Insurance Agent or Broker licenses shall be valid for one (1) year from the date of issuance. Any licensee wishing to renew a license shall submit an application for renewal to the Registrar no later than two (2) months prior to the expiration of the license. The applicant shall obtain from the Office of the Insurance Commission a certificate evidencing that he has passed additional training or a program held by the Office of the Insurance Commission or has passed the course and

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<sup>54</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>55</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

procedures prescribed by the Office of the Insurance Commission.

If the licensee under the foregoing paragraph has renewed his license two consecutive times and applies for a third renewal, the newly issued license shall be valid for a period of five (5) years.

Applications for the renewal and the granting of the renewal shall be in accordance with the rules, procedures, and conditions prescribed by the Commission. Insurance Act No. 2, B.E. 2551

**Section 78** Upon any Life Insurance Broker being appointed as a director, manager, officer, or employee of any Company, such Life Insurance Broker's license shall be terminated.

**Section 79** In the case that a Company delivers an insurance policy to an insured, or to the beneficiary under such policy, or has given an insurance policy to a Life Insurance Broker for delivery to the insured or beneficiary, it is presumed that the premiums for such policy have been paid by the insured.

**Section 80** For the purpose of inspecting the performance of a Life Insurance Broker, the Registrar and the Competent Officer shall have the power to order a Life Insurance Broker to give statements, or submit registers, account books, or any documents, or reports in the form and particulars prescribed by the Registrar, for inspection, or to enter into such person's office between sunrise and sunset to perform such inspection. In this event, a Life Insurance Broker shall cooperate with the Registrar.

**Section 81**<sup>56</sup> The Registrar shall have the power to revoke a Life Insurance Agent license or Life Insurance Broker license, if it appears to the Registrar that such Life Insurance Agent or Broker:

- (1) has committed an act that violates the provisions of this Act;
  - (2) has violated or failed to comply with the rules, procedures, and conditions prescribed by the Registrar or the Commission;
  - (3) lacks the qualifications under section 69 or section 72, as the case may be;
- or
- (4) operates a business which causes, or may cause, damage to insureds, beneficiaries, or the public.

Upon the revocation of a license under the first paragraph, the Registrar shall notify the person whose license is revoked, to that effect.

**Section 82** A person whose license is revoked under section 81 shall have the right to appeal to the Commission within fifteen (15) days from the date on which the order became known. The Commission's decision is final.

**Section 83** No person shall induce, advise, or in any manner act so as to cause any person to enter into a life insurance contract with a life insurer abroad, or with any person except a person licensed to engage in the Life Insurance Business under this Act.

The provisions of the first paragraph shall not apply to inducement, advice, or acts in any manner that cause any person licensed to engage in the Life Insurance Business under this Act to enter into a reinsurance contract with a life insurer abroad.

#### **Chapter IV/I<sup>57</sup>** **Actuaries**

**Section 83/1<sup>58</sup>** A report of the calculation of insurance policy liabilities under the insurance policies of the Company shall be certified by an actuary.

**Section 83/2<sup>59</sup>** An actuary must obtain a license from the Registrar.  
Applications and issuance of licenses shall be in accordance with the rules, procedures, and conditions prescribed by the Commission.

**Section 83/3<sup>60</sup>** A person applying to be an actuary shall have the following qualifications:

(1) graduated in actuarial sciences from an educational institute certified by the Civil Service Commission, in the programs or courses prescribed in the notification of the Registrar, and have conducted actuarial or statistical work in relation to insurance, as prescribed by the Registrar, for a period of not less than five (5)

years; or

(2) be a fellow of the actuary association, as prescribed by the Registrar.

The notification of the Registrar under paragraph one shall be published in a Royal Gazette.

**Section 83/4<sup>61</sup>** An applicant shall not meet any of the following disqualifications:

(1) was convicted to imprisonment by a final court judgment for an offense relating to property, or an offense under section 114/1 or section 114/2, unless if he was released no less than five (5) years prior to the date of application;

(2) be a person who is *non compos mentis* or mentally incapacitated, incompetent, or quasi-incompetent;

(3) be bankrupt;

(4) had his license suspended;

(5) had his license revoked within the five (5) years prior to the date of application.

**Section 83/5<sup>62</sup>** An actuary license shall be valid for two (2) years from the date of issuance.

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<sup>57</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>58</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>59</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>60</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>61</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

A licensee shall submit an application for renewal no later than two (2) months prior to the date of expiration. Once the applicant has filed an application, it shall be deemed that the applicant is a licensee, until the receipt of a rejection order.

Applications for the renewal and the granting of renewed licenses shall be in accordance with the rules, procedures, and conditions prescribed by the Commission.

**Section 83/6<sup>63</sup>** An actuary shall prepare a report or paper, in relation to the calculation of Insurance policy liabilities , or other mathematical analysis, in accordance with the form and particulars prescribed by the Registrar. The Registrar may request an explanation or clarification of the content of such report or document.

**Section 83/7<sup>64</sup>** An actuary shall comply with the code of professional ethics, as prescribed by the Commission in the Royal Gazette.

**Section 83/8<sup>65</sup>** The Registrar shall have the power to suspend an actuary license, if it appears to the Registrar that the actuary:

- (1) fails to comply with section 83/6 or section 83/7; or
- (2) certifies a report on calculation of insurance policy liabilities under insurance policies without due care. The period of suspension under the foregoing paragraph shall be as the Registrar deems appropriate, but not more than one (1) year for each suspension.

**Section 83/9<sup>66</sup>** The Registrar shall have the power to revoke an actuary license, if it appears to the Registrar that the actuary:

- (1) lacks the qualifications under section 83/3; or possesses disqualifications under section 83/4; or
- (2) is an actuary whose license was suspended and has repeated any of the actions under section 83/8.

**Section 83/10<sup>67</sup>** An actuary whose license is suspended or revoked under section 83/8 or section 83/9 shall have the right to appeal to the Commission, within thirty (30) days from receipt of the order to such effect. The Commission shall decide on the appeal within sixty (60) days from the receipt of appeal.

The decisions of the Commission shall be final.

## **Chapter V<sup>68</sup>**

### **Life Insurance Funds**

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<sup>62</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>63</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>64</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>65</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>66</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>67</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>68</sup> Amended by the Life Insurance Act No. 2, B.E. 2551



**Section 84** A Fund to be called the "Life Insurance Fund" shall be established as a juristic person, with the purposes of protecting creditors who are entitled to receipt of repayment of debts arising from the taking of insurance, in the event that a Company becomes bankrupt or has its Life Insurance Business license revoked, and for development of the Life Insurance Business, to ensure its stability and security.

The Fund shall not be a government organization or state enterprise under the law on budgetary procedures.

**Section 85** The Fund shall consist of:

- (1) money and assets transferred from the Commission's Fund for the Development of the Life Insurance Business of the Office of Insurance Commission;
- (2) money received under section 52;
- (3) money received under section 85/3;
- (4) surcharges received under section 85/4;
- (5) fines under section 117, less rewards and relevant expenses;
- (6) money or other assets given by other persons;
- (7) interest or income derived from money or assets of the Fund; and
- (8) government subsidies.

**Section 85/1** The Fund shall have the power to carry out any activities within the scope of its purposes under section 84. This shall include the power to:

- (1) own, have possession rights, and hold any proprietary rights;
- (2) create rights or conduct any juristic acts in the Kingdom and elsewhere;
- (3) lend money to a Company for its operations under the purpose of the Fund;
- (4) invest, to gain interest from the assets of the Fund; and
- (5) do other acts or things in connection with, or in relation to, arrangements to effect the purposes of the Fund.

**Section 85/2** The Fund's money shall be expended for the following activities:

- (1) the provision of assistance to creditors who are entitled to receive repayment of debts incurred in the taking of insurance, in the event that a Company becomes bankrupt or has its Life Insurance Business license revoked;
- (2) the development of the Life Insurance Business, to ensure its stability and security; provided that the sum shall not exceed the amount received under section 85(1) and (2); and
- (3) managing the Fund, and paying expenses in relation to or in connection with Fund management, provided that this shall not exceed the rate determined by the Fund Management Committee.

**Section 85/3** A Company shall make contributions to the Fund at the rate prescribed by the Commission, with the consent from the Minister. The rate shall not exceed 0.5% of the insurance premiums received by the Company during the six (6) months prior to making contributions to the Fund.

The rules, procedures, conditions, and period for making contributions to the Fund shall be as prescribed by the Commission.

If the Fund has sufficient money and assets to operate, in accordance with its purpose, the Commission, with the consent from the Minister, may announce a reduction of rates, or discontinuation of contributions to the Fund.

**Section 85/4** A Company failing to make full and correct contributions to the Fund under section 52 or section 85/3 shall pay a surcharge, at the rate of 1.5% per month of such outstanding contribution. Fractions of a month are counted as one month.

If the Registrar finds that the Company fails to make contributions to the Fund, as set out in section 52 or section 85/3, due to an event of *force majeure* and the Company has made such contribution within seven (7) days from the due date for making contributions, the surcharge under the foregoing paragraph shall be reduced to 1.0%.

Throughout the period that the Company fails to make contributions to the Fund, or fails to pay the surcharge under paragraph one, the Registrar shall order the Company not to expand its business, until the contributions and surcharge are fully paid and the order prohibiting business expansion is lifted.

For the purpose of this section, when determining whether an event is an expansion of business under the third paragraph, the provisions in section 27/6, paragraph two, and the penalty in the case of a violation of section 27/6, paragraph one, as provided for under section 94/1, shall apply, *mutatis mutandis*.

**Section 85/5** If a Company is bankrupt, or has its license revoked, and the amount received under section 26 is insufficient, such creditors entitled to receive repayment of the debts incurred in taking insurance shall have the right to receive repayment from the Fund.

The sum that each creditor will receive from the Fund, when combined with the repayment under section 26, shall not exceed the amount claimed against the insurance. If the amount claimed against all insurance contracts is more than one million baht, the creditor is entitled to receive a repayment of only one million baht.

The rules, procedures, and conditions for payment, as well as the claimed amount incurred with regard to taking insurance under the second paragraph, shall be as prescribed by the Commission.

**Section 85/6** In the interest of fairness, the Commission, with the consent from the Minister, may determine that the amount to be paid to the creditor who is entitled to the repayment be greater than the amount set out in section 85/5, paragraph two, for all or certain types of life insurance contracts.

**Section 85/7** The Fund shall succeed the right of a creditors, who is entitled to receive the repayment of a debt incurred with respect to the taking of insurance, in the equivalent amount that the Fund has paid to such creditor. The Fund shall be entitled to receive the repayment against such sum from an official receiver or liquidator, as the case may be, with a preferential right over ordinary creditors of the Company.

**Section 86** A committee known as the "Fund Management Committee" shall be established. The Fund Management Committee shall consist of the Permanent Secretary of the Ministry of Finance, as chairman, the Secretary General of the Office of Insurance Commission, as deputy chairman, a representative of the Bank of Thailand, two (2) representatives of the Thai Life Insurance Association, and up to four (4) qualified persons, appointed by the Minister, as members.

The Fund Manager shall be the secretary of the Fund Management Committee.

**Section 86/1** The term of qualified members appointed by the Minister shall be three (3) years. In the event that a qualified member, appointed by the Minister, retires from office before the expiration of his term, or in the event that the Minister appoints a new qualified member when the tenure of an existing director has not yet expired, the new member shall retain the position only for the remaining term of that person's predecessor and other existing members.

Upon the expiration of the term set out in the first paragraph, if no appointment is made, the member who retires due to the end of term shall retain the position until a new member is appointed.

A retired member shall be eligible for re-election, but can not retain office longer than two consecutive terms.

**Section 86/2** Apart from retirement due to the end of a term under section 86/1, a qualified member appointed by the Minister shall be removed from his position upon:

- (1) death;
- (2) resignation;
- (3) bankruptcy;
- (4) removal by the Minister due to remissness, misconduct, or lack of ability;
- (5) incompetence or quasi-incompetence;
- (6) imprisonment by final judgment; or
- (7) becoming a political official or holding a political position.

**Section 86/3** The Fund Management Committee shall have the power and duty to determine the following:

(1) policies, rules, regulations, and notifications, in relation to the management of the Fund;

(2) regulations regarding receipts, payments, and maintaining and seeking interest for the Fund;

(3) regulations concerning applications for, and granting approval of, paying debts to creditors who are entitled to repayment of debts incurred in taking insurance;

(4) rates and regulations pertaining to the use of the money of the Fund in developing the Life Insurance Business, for its stability and security;

(5) rules, procedures, and conditions for lending money to a Company under section 85/1(3);

(6) rates of expenses for managing the Fund under section 85/2(3);

(7) regulations concerning operation performed by the Fund Manager; and

(8) other necessary or relevant acts for achieving the purposes of the Fund.

Determinations under (2), (3), (4), (5), and (6) shall be subject to the consent from the Commission.

For the performance of its duties under the first paragraph, the Fund Management Committee may ask the Registrar, the Company, or any person to submit documents or evidence for consideration.

**Section 86/4** A quorum for a meeting of the Fund Management Committee shall consist of no less than one-half of all its members.

If the chairman is not present at the meeting, or is unable to perform his duty, the deputy chairman shall serve as chairman of the meeting. If the chairman or the deputy chairman are not present, or are unable to perform their duties, the members present shall elect among themselves a new chairman of the meeting.

Resolutions of the meeting shall require a simple majority of votes. Each member shall be entitled to one (1) vote. In the event of an equality of votes, the chairman of the meeting shall be entitled to a casting vote.

**Section 86/5** To perform its duties under this Act, the Fund Management Committee shall have the power to appoint a sub-committee to review or carry out any task as designated by the Fund Management Committee.

The provisions of section 86/4 shall be applied, *mutatis mutandis*, to a meeting of the sub-committee.

**Section 86/6** The chairman, members of the Fund Management Committee, and members of the sub-committee shall be entitled to an allowance for meeting attendance and other benefits as determined by the Minister.

**Section 87** The Fund Management Committee shall appoint a Fund Manager. The Fund Manager's term, removal, probationary conditions, and conditions for performing duties in the capacity of manager shall be in accordance with an engagement contract determined by the Fund Management Committee. The engagement term shall not exceed four (4) years. Upon the expiration of the engagement contract, the Fund Management Committee may renew the contract, provided that the Fund Manager cannot retain his office for more than two consecutive terms.

The chairman shall be authorized to enter into the contract to engage a Manager, on behalf of the Fund.

The Fund Manager shall receive wages, remuneration, and other monies, as determined by the Fund Management Committee.

**Section 87/1** A person appointed as a Fund Manager shall be:

- (1) a Thai national;
- (2) not more than 65 years of age; and
- (3) able to work full-time for the Fund.

**Section 87/2** Other than the qualifications under section 87/1, the person appointed as the Fund Manager shall not have the following qualifications:

- (1) was convicted to imprisonment by a final court judgment for an offense relating to property;
- (2) be or have been declared bankrupt;
- (3) be an official, officer, or employee of any ministry, bureau, department, local administration, or state enterprise under the law on budgetary procedures, or other governmental agencies;
- (4) be a political official, or hold a political office;
- (5) hold any other position in a juristic person, carrying out a business that competes with the Fund;
- (6) have direct or indirect interest in the contracts entered into with the Fund, or in the activities carried out for the Fund, except for a person appointed by the Fund Management Committee to be a director of a company of which shares are held by the Fund.

**Section 87/3** With the exception of retirement due to the expiration of the engagement contract, the Fund Manager shall be removed from his position upon:



- (1) death;
- (2) resignation;
- (3) lack of qualifications or possession of disqualifications under section 87/1 or section 87/2; or
- (4) the resolution of the Fund Management Committee to terminate the engagement.

**Section 87/4** The Fund Manager shall represent the Fund when dealing with third persons for the activities of the Fund. The Fund Manager may assign or delegate any person to perform his duties, in accordance with the regulations prescribed by the Fund Management Committee.

Any juristic acts or things carried out by the Fund Manager which violate the provisions of the foregoing paragraph shall not bind the Fund, unless the Fund Management Committee has ratified such acts or things.

**Section 88** The Fund shall put-in-place and maintain its accounting system in accordance with internationally accepted accounting standards. In-house audits shall be conducted on a regular basis. Books and accounts shall keep particulars of:

- (1) sums received and expended; and
- (2) assets and liabilities showing actual and reasonable financial standing, together with content showing information of the relevant particular.

**Section 88/1** The Office of the Auditor-General, or an auditor approved by the Office of the Auditor-General, shall be the auditor of the Fund.

**Section 88/2** An auditor's report shall be presented to the Fund Management Committee within one hundred twenty (120) days from the end of each accounting year. A copy of the auditor's report shall be submitted to the Commission and the Minister.

## **Chapter VI**

### **Penalty Provisions**

**Section 89** Any Company which violates or fails to comply with the provisions of the fifth paragraph of section 8, section 9, section 10, section 11, section 17, or section 21, or fails to comply with the conditions prescribed by the Minister under the fourth paragraph of section 7, the first paragraph of section 8, or the conditions prescribed by the Registrar under the second paragraph of section 33(9), or the second paragraph of section 34, shall be liable to a fine from Baht 20,000 up to Baht 200,000, and to a further fine not exceeding Baht 10,000 per day, for every consecutive day during which such violation continues.

**Section 90** Any Company which fails to inspect its register of shareholders, or to inform its shareholders, constituting a failure to comply with section 12, shall be liable to a fine from Baht 10,000 up to Baht 50,000, and to a further fine not exceeding Baht 5,000 per day, for every consecutive day during which such violation continues.

**Section 91** Whoever violates the provisions of section 18 shall be liable to imprisonment for a term of two (2) years to five (5) years, or a fine from Baht



200,000 up to Baht 500,000, or both, and to a further fine not exceeding Baht 20,000 per day, for every consecutive day during which such violation continues.

**Section 92<sup>69</sup>** Whoever violates the provisions of section 19, paragraph one, shall be liable to a fine from Baht 20,000 up to Baht 100,000, and to a further fine not exceeding Baht 5,000 per day, for every consecutive day during which such violation continues. A Life Insurance Agent or Broker who uses a name or the expression of a name of a business, in violation of the rules, procedures, and conditions prescribed by the Registrar under section 19, paragraph two, shall be liable to imprisonment of up to one (1) year, or a fine of up to Baht 100,000, or both.

**Section 93<sup>70</sup>** A Company violating the provisions of section 23, section 28, section 33, section 34, section 35, section 36, section 37, section 53, and section 54; or failing to place a deposit under section 24; or failing to comply with the provisions prescribed by the Commission under section 38 shall be liable to a fine of not more than Baht 500,000, and a daily fine of up to Baht 20,000, for every consecutive day during which such violation continues.

**Section 94** Any Company that violates the provisions of section 25 shall be liable to a fine not exceeding Baht 50,000.

**Section 94/1<sup>71</sup>** A Company violating the provisions of section 27, paragraph five, section 27/1, paragraph one, section 27/3, section 27/4, or section 27/6, paragraph one, shall be liable to a fine of up to Baht 500,000.

**Section 95<sup>72</sup>** A Company that issues an insurance policy, relevant documents, or annexes thereto, in violation of section 29, or determines premium rates in violation of section 30, or violate section 31, or fails to comply with section 32, shall be liable to a fine of up to Baht 300,000.

**Section 96** Any Company which fails to comply with the provisions of section 39 shall be liable to a fine not exceeding Baht 50,000.

**Section 97** Any Company which fails to comply with the provision of section 41 shall be liable to a fine not exceeding Baht 100,000.

**Section 98<sup>73</sup>** The Company that violate or fails to comply with section 27/5, paragraph one, section 40, section 43, section 46, or section 47, or fails to comply with the Commission's order under section 45, or the Registrar's order under section

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<sup>69</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>70</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>71</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>72</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>73</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

46/1, shall be liable to a fine of up to Baht 100,000 and further fine of Baht 5,000, for every consecutive day during which such violation continues.

**Section 99** Any Company which fails to allow interested persons to inspect its register books or fails to provide a certified copy of such register as such interested persons request under section 42 shall be liable to a fine not exceeding Baht 5,000.

**Section 100** Any Company which wilfully gives a false statement, or conceals a fact which must be notified while submitting particulars, or which must be notified under section 45, shall be liable to a fine from Baht 20,000 up to Baht 100,000.

**Section 101** Whoever obstructs or fails to cooperate with the Registrar or the Competent Officer in the performance of his duties under section 48, or violates the Registrar's order or the Competent Officer's order under section 48, shall be liable to imprisonment not exceeding one (1) month, or a fine not exceeding Baht 10,000, or both.

**Section 102**<sup>74</sup> A Company violating section 51, paragraph one, shall be liable to a fine of up to Baht 500,000.

**Section 103** Whoever violates the provision of the section 54, paragraph five, shall be liable to imprisonment not exceeding three (3) years, or a fine not exceeding Baht 300,000, or both.

**Section 104** Whoever violates the provisions of section 58, section 59, or section 60 shall be liable to imprisonment not exceeding six (6) months, or a fine not exceeding Baht 50,000, or both.

**Section 105** Whoever violates the provision of section 68, paragraph one, shall be liable to imprisonment not exceeding six (6) months, or a fine not exceeding Baht 50,000, or both.

**Section 106**<sup>75</sup> Any Life Insurance Agent who enters into a life insurance contract without the written authorization of the Company under section 71, paragraph two, or any Life Insurance Broker or Company employee who collects premiums without the written authorization of the Company under section 71, paragraph three, shall be liable to imprisonment of not more than two (2) years, or a fine not exceeding Baht 200,000, or both.

**Section 106/1**<sup>76</sup> A Life Insurance Agent who violates or fails to comply with section 30/1, paragraph two, or who fails to comply with section 71/1, shall be liable to a fine of up to Baht 30,000.

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<sup>74</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>75</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>76</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

If any act under the foregoing paragraph causes damage to the Company or the insured, such Life Insurance Agent shall be liable to imprisonment of up to three (3) months, or a fine not exceeding Baht 30,000, or both.

**Section 106/2<sup>77</sup>** Any Life Insurance Agent or employee of the Company who fails to comply with section 71/2 shall be subject to a fine of up to Baht 30,000.

If any act under the foregoing paragraph causes damage to the Company or the insured, such Life Insurance Agent or employee shall be liable to imprisonment of up to three (3) months, or a fine not exceeding Baht 30,000.

**Section 107** A Life Insurance Broker who does not have an office, as specified in the Life Insurance Broker license application, or as informed to the Registrar as the change of office, under section 74, shall be liable to a fine from Baht 10,000 up to Baht 50,000.

**Section 108** Any Life Insurance Broker who moves his office without informing the Registrar under section 74 shall be liable to a fine not exceeding Baht 10,000.

**Section 109** Any Life Insurance Broker who fails to comply with the provisions in the first paragraph of section 75, or does not record events in his register and account books, under the second paragraph of section 75, shall be liable to a fine not exceeding Baht 50,000, and to a further fine not exceeding Baht 2,000 per day, for every consecutive day which such violation continues.

**Section 110** Any Life Insurance Broker who fails to comply with the provisions in section 76 shall be liable to a fine not exceeding Baht 50,000.

**Section 111** Any Life Insurance Broker who fails to comply with the order of the Registrar, or of the Competent Officer, under section 80, shall be liable to imprisonment not exceeding one (1) month, or a fine not exceeding Baht 10,000, or both.

**Section 112** Whoever violates or fails to cooperate with the Registrar or the Competent Officer in the performance of his duties under section 80 shall be liable to imprisonment not exceeding one (1) month, or a fine not exceeding Baht 10,000, or both.

**Section 113** Whoever violates the provisions in the first paragraph of section 83 shall be liable to imprisonment not exceeding six (6) months, or a fine not exceeding Baht 50,000, or both.

**Section 114<sup>78</sup>** If any Company willfully violates the provisions of section 23, section 28, section 36, or section 51, paragraph one, or willfully gives a false statement, or conceals any facts to be clarified or explained under section 45, the director or person responsible for the operation of the Company shall be liable to

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<sup>77</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>78</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

imprisonment of up to one (1) year, or a fine not exceeding Baht 100,000, or both, unless such director or person can prove that he was not involved with the Company's wrongdoing.

**Section 114/1<sup>79</sup>** Whoever violates section 83/2 shall be subject to imprisonment for up to three (3) years, or a fine not exceeding Baht 300,000, or both.

**Section 114/2<sup>80</sup>** Any actuary who makes a false statement, certifying a report on the calculation of liabilities under insurance policies, or a false report, or furnishes false relevant documents in connection therewith, shall be liable to imprisonment of up to two (2) years, or a fine not exceeding Baht 200,000, or both. The provisions of section 115, paragraphs two and three, shall apply, *mutatis mutandis*.

**Section 115** In the event of any following offenses:

(1) in the operation of the Company, any director or person responsible for such operation commits an offense against property under chapter 1, chapter 3, chapter 4, chapter 5, or chapter 7 of Title 12 of the Criminal Code, or section 40, section 41, or section 42 of the Act on the Penalty of Registered Partnerships, Limited Partnerships, Limited Companies, Associations, and Foundations, B.E. 2499, or section 215 or section 216 of the Public Company Act, B.E. 2535;

(2) in auditing the Company's accounts, any auditor commits an offense under section 269 of the Criminal Code, or section 31 of the Act on the Penalty of Registered Partnerships, Limited Partnerships, Limited Companies, Associations, and Foundations, B.E. 2499; or

(3) whoever causes another to commit an offense, or support another to commit an offense under (1) or (2),

the Department of Insurance shall be deemed the injured party under the Criminal Procedure Code.

For an offense under this section, when filing a criminal case with the court, the public prosecutor shall have the power to call for property, or prices, or claim compensation for damages for the injury. In this event, the provisions of filing a civil case under the Criminal Procedure Code shall apply, *mutatis mutandis*.

**Section 116** Where there is evidence that any person committed an offense under section 115, and the Department of Insurance considers that damage to the public may be caused unless immediate action is taken, the Department of Insurance shall have the power to order the seizure or attachment of the property of that person, or property which may legally be deemed to be property belonging to that person. The seizure or attachment may not be for longer than six (6) months, unless a case has been filed in Court. In which event, the order of seizure or attachment shall continue to operate until the Court orders otherwise. Where circumstances render it impossible to file a case in Court within six (6) months, the Court having territorial jurisdiction may extend the period of seizure or attachment, for a period as requested by the Department of Insurance. The Department of Insurance shall have the power to appoint officials of the Department to seize or attach property under the first paragraph. The provisions of the Revenue Code shall apply to seizures or attachments

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<sup>79</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>80</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

of property under the first paragraph, *mutatis mutandis*. In cases under the first paragraph, where there is reasonable grounds for suspecting that said person is about to abscond from the Kingdom, and when requested by the Department of Insurance, the Criminal court shall have the power to restrain that person from leaving the Kingdom, or in case of emergency, when the Director General of the Department of Insurance or a person designated by the Director-General of the Department of Insurance notifies the Director-General of the Police Department, the Director-General of the Police Department shall have the power to restrain that person from leaving the Kingdom for a temporary period of not more than fifteen days, until the Criminal Court orders otherwise.

Whoever violates the order of the Criminal Court or Director-General of the Police Department, made under the provisions of the fourth paragraph, shall be liable to imprisonment for a term not exceeding ten (10) years and to a further fine not exceeding Baht 1,000,000.

**Section 117** A committee appointed by the Minister shall have the power to settle out of court any offense under this Act, except for offenses under section 91 and section 116.

The committee appointed by the Minister under the first paragraph shall consist of three members, one of whom shall be an investigating officer under the Criminal Procedure Code.

Where a case has been settled by such committee and the alleged offender has paid the fine as fixed within the period of time specified by the committee, such settlement of the case shall be regarded as final.

**Section 117/1<sup>81</sup>** Any offense under this Act which is subject to only a fine shall be barred under the statute of limitations, if no lawsuit regarding such offense is brought before a Court, or no settlement is made under section 117 within five (5) years from the date of the offense.

**Section 117/2<sup>82</sup>** If any Company, Life Insurance Agent, Life Insurance Broker, or actuary violates or fails to comply with the provisions of this Act, or the Ministerial Regulations or Notification enacted under this Act, the Office of the Insurance Commission shall have the power to proclaim or publish such violation or non-compliance, giving to the public the details thereof, as well as the names of the involved parties, in accordance with the rules and procedures prescribed by the Commission.

### **Transitional Provisions**

**Section 118** It shall be deemed that a Company that already has a license to engage in the Life Insurance Business under the Life Insurance Act B.E. 2510 (1967) is a Company that has had a license to engage in the Life Insurance Business under this Act, and that a branch office of the Company already licensed under said Act, before or on the date the Act comes into force, is a branch office of the Company

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<sup>81</sup> Amended by the Life Insurance Act No. 2, B.E. 2551

<sup>82</sup> Amended by the Life Insurance Act No. 2, B.E. 2551



licensed under this Act, in accordance with the conditions prescribed by the Minister when granting the license.

**Section 119** Any Company under section 118 that has issued shares in contravention of section 9 of this Act, shall rectify such contravention, to comply with section 9 of this Act, within two (2) years from the date of this Act coming into force.

**Section 120** Any Company under section 118 whose Thai-nationality shareholders or directors are in a number less than the rate prescribed in section 10 of this Act may continue to have shareholders or directors of Thai nationality in such number.

**Section 121** Any Company under section 118 that has already had a branch office that is separate from the Head Office of the Company, and engages in any activity for the benefit of the Company under Section 118, shall apply for permission to open a branch office correctly under this Act or discontinue such branch office. The application shall be completed within one (1) year from the date of this Act coming into force. Within such period, the Company under section 118 shall not be deemed to be violating section 17.

**Section 122** The Company under section 118 shall place a correct security deposit under section 20 of this Act, within one (1) year from the date the Ministerial Regulations are issued, in accordance with section 20 of this Act coming into force.

**Section 123** The Company under section 118 shall arrange for maintaining capital funds under section 27 of this Act correctly, within three (3) years from the date of this Act coming into force.

**Section 124** The provision of section 34 of this Act shall not be applied to all immovable property which the Company under section 118 acquired or had before the Act comes into force, which must be disposed of under section 34 of this Act within nine (9) years from the date of cessation of use or the date of acquisition of that immovable property, as the case may be, unless the Company under section 118 acquired or had that immovable property before 14 April 2510 (1967).

**Section 125** The provision of section 35 of this Act shall not be applied to a person who was legally a director, manager, officer, authorized person in the administration, or advisor of the Company under section 118, before or on the date of this Act coming into force.

**Section 126** The proceeds that an insured or beneficiary under an insurance policy, or a heir of the insured who has the right to receive them under the insurance policy, are barred by prescription and are in the possession of the Company on the date of this Act coming into force, shall be examined and sent by the Company to the Fund within three (3) months from the date of this Act coming into force, and the provision of section 85 shall apply, *mutatis mutandis*.

**Section 127** Any Company under section 118 licensed to engage in the non-life insurance business under the Non-Life Insurance Act, before or on the date this

Act comes into force, shall continue engaging in the non-life insurance business under its license, in accordance with the following conditions:

(1) the security deposit placed by the Company with the Registrar and the capital funds maintained by the Company under sections 20 and 27 of the Act, as the case may be, shall be a security deposit and capital funds separated from the security deposit and capital funds that the Company under section 118 shall place and maintain, under the Non-Life Insurance Act;

(2) the books of account of the non-life insurance business shall be separated from that of the Life Insurance Business;

(3) if the Minister orders the withdrawal of a Company's license to engage in the Life Insurance Business, under section 64 of this Act, such order shall be an order to withdraw the Company's license to engage in the non-life insurance business under section 118.

A Company under the first paragraph shall establish a new Company to obtain a license to engage in the non-life insurance business, under the law on Non-Life Insurance, and shall transfer the assets, liabilities, and responsibilities under insurance policies, including officers and employees of the non-life insurance business of the Company under section 118, to that new Company within eight (8) years from the date when this Act comes into force. Failure to establish a new company to obtain said license within the time so specified, or to comply with the provisions of this section, shall cause the license of the Company under section 118, to engage in the non-life insurance business, to expire.

**Section 128** If there is a necessary reason, the Minister shall have the power to extend the period prescribed in section 119, section 121, section 122, and section 123 of this Act, upon the application of the Company under section 118, showing the necessary reason. However, said extended period shall not exceed two (2) years from the expiration of the period prescribed under section 119, section 121, section 122, and section 123.

**Section 129** A person who has obtained a license to be a Life Insurance Agent or a license to be a Life Insurance Broker under the Life Assurance Act B.E. 2510 shall be a person who has obtained a license to be a Life Insurance Agent or license to be a Life Insurance Broker under this Act.

**Section 130** A person simultaneously licensed to be an agent and a broker under the Life Assurance Act B.E. 2510 shall notify the Registrar of his intention to terminate being a Life Insurance Agent or Broker, as the case may be, within two (2) months from the date of this Act coming into force. Any person who fails to give a notice of termination of being a Life Insurance Agent or Broker, after the expiry of said period, to the Registrar, the Life Insurance Broker's license of said person shall be deemed terminated from the expiry of the period during which the termination should have been notified.

**Section 131** All Ministerial Regulations, Notifications, or conditions issued or prescribed in the granting of permission, which are effective before or on the date of this Act coming into force, shall continue being effective in so far as they are not in conflict with or inconsistent with the provisions of this Act.

#### **Transitional Provisions under the Life Insurance Act (No. 2) B.E. 2551**

**Section 54** All companies obtaining life insurance licenses under the Life Insurance Act B.E. 2535 (1992) shall be deemed licensees under the Life Insurance Act B.E. 2535 (1992) as amended by this Act, and a branch of a Company obtaining a Life Insurance Business license before or on the date this Act comes into force shall be deemed a branch of the licensee under the Life Insurance Act B.E. 2535 (1992) as amended by this Act, under the conditions prescribed by the Minister for approval.

If a Company obtaining a license under the foregoing paragraph is a limited company, such Company shall be changed to a public limited company within five (5) years from the date this Act comes into force. If the change is not completed within the specified time, the Company may continue its ordinary business, but may not expand its business until it becomes a public limited company, which shall be completed within three (3) years. If the change is not completed within the specified time, the Life Insurance Business license of the Company shall expire and it shall be deemed that the Company's Life Insurance Business license has been revoked.

The change to a public limited company under the second paragraph shall be in accordance with the law of public limited companies.

For the purpose of this Act, when determining whether an event is an expansion of business under the second paragraph, the provisions in section 27/6, paragraph two, and the penalty in the case of a violation of section 27/6, paragraph one, as provided for under section 94/1 of the Life Insurance Act B.E. 2535 (1992), as amended by this Act, shall apply, *mutatis mutandis*.

**Section 55** Within five (5) years from the date this Act comes into force, a Company under section 54, paragraph one, of this Act shall change the ratio of its shareholders or directors to be in accordance with section 10 of the Life Insurance Act B.E. 2535 (1992), as amended by this Act. If the Company is unable to make such change within the specified time, the Company may continue its activities, but may not open new branches.

**Section 56** During the change from a limited company to a public limited company under section 54 of this Act:

(1) the provisions of section 14, section 14/1, and section 14/3 of the Life Insurance Act B.E. 2535 (1992), as amended by this Act, shall apply, *mutatis mutandis*, to a transfer of any or all businesses between a limited company and a limited company, or a limited company and a public limited company, obtaining life insurance licenses under the Life Insurance Act B.E. 2535 (1992);

(2) the amalgamation of limited companies shall be in accordance with the Civil and Commercial Code, provided that a new company shall be registered as a public limited company under the law on public limited companies. The provisions of section 14/2, paragraphs two and three, of the Life Insurance Act B.E. 2535 (1992), as amended by this Act, shall apply, *mutatis mutandis*;

(3) the amalgamation of a limited company and a public limited company shall be in accordance with the law on public limited companies. The provisions of section 14/2, paragraphs two and three, of the Life Insurance Act B.E. 2535 (1992), as amended by this Act, shall apply, *mutatis mutandis*;

(4) liquidation, or amendment to the Memorandum of Association, in the event of a limited company obtaining a Life Insurance Business license under section 51 of the Life Insurance Act B.E. 2535 (1992), as amended by this Act, shall be in accordance with the Civil and Commercial Code;

(5) the provisions of section 1220, section 1224, section 1225, and section 1226, of the Civil and Commercial Code shall not apply to a capital increase or reduction of a limited company under section 53, paragraphs two or three, of the Life Insurance Act B.E. 2535 (1992).

**Section 57** If the Commission has yet to issue a Notification concerning capital funds under section 27 of the Life Insurance Act B.E. 2535 (1992), as amended by this Act, or the Commission issues a Notification which is yet to take effect, a Company shall maintain capital funds under the Life Insurance Act B.E. 2535 (1992).

The issuance of the Notification under the first paragraph shall be completed within three (3) years after the enforcement of this Act.

**Section 58** All immovable property vested in a Company, under section 33(9) of the Life Insurance Act B.E. 2535 (1992), before the date this Act comes into force, shall be disposed of in accordance with section 34 of the Life Insurance Act B.E. 2535 (1992).

**Section 59** A Company under section 54, paragraph one, of this Act shall cause a director, manager, person authorized to act on its behalf, or a consultant to the Company, who has the qualifications and does not possess the prohibited qualifications stated in section 35 of the Life Insurance Act B.E. 2535 (1992), as amended by this Act, to be appointed within two (2) years from the date this Act comes into force.

**Section 60** Where no Notifications regarding the rules, regulations, and conditions for application of a license, or for renewal of a license, under section 70 or section 77 of the Life Insurance Act B.E. 2535 (1992), as amended by this Act, have been issued, or such Notification is issued, but has yet to take effect, the approval shall be considered in accordance with section 70 or section 77 of the Life Insurance Act B.E. 2535 (1992), as the case may be.

**Section 61** A person who obtained the written authorization of the Registrar to certify reports on calculations of liabilities under insurance policies, prior to the date this Act comes into force, may certify such reports until the written authorization expires.

**Section 62** Upon the expiration of eight (8) years from the date this Act comes into force, an applicant for an actuary license shall be required to have the qualifications under section 83/3(2) only. The Registrar, with the approval of the Commission, may extend the period specified in the foregoing paragraph as necessary, but not exceeding an additional two (2) years.

**Section 63** The Office of the Commission shall transfer money, property, and debts of the Fund for the Development of the Life Insurance Business, existing on the date of the publication of this Act in a Government Gazette, to the Life Insurance Fund.



**Section 64** The rates of fees stated in the Schedule attached to the Life Insurance Act B.E. 2535 (1992) shall be repealed and replaced by the Schedule attached hereto.

**Section 65** All Ministerial Regulations, Notifications, conditions, or orders issued under the Life Insurance Act B.E. 2535 (1992), applicable on the date this Act comes into force, shall, to the extent not in conflict or inconsistent with this Act, continue to be applicable until the Ministerial Regulations, Notifications, conditions, or orders under this Act come into force. Any Ministerial Regulations, Notifications, conditions, or orders under the foregoing paragraph shall be issued within two (2) years from the date this Act comes into force.

**Section 66** The Finance Minister shall have the care and charge of the execution of this Act. Countersigned by The Prime Minister  
(Government Gazette Vol. 109, Part 46, 10 April B.E. 2535 (No. 1))  
(Government Gazette Vol. 125, Part 26 Gor, 1 February B.E. 2551 (No. 2))

#### **Schedule of Fee<sup>83</sup>**

- (1) Application for life insurance business license 400,000 Baht
- (2) Life insurance business license 4,000,000 Baht
- (3) Life insurance business license, in case of amalgamation 200,00 Baht
- (4) License to open a branch of the company 80,000 Baht
- (5) Permission to relocate the head office or branch office 20,000 Baht
- (6) Application fee for examination to receive a life insurance agent license or a life insurance broker license 400 Baht
- (7) Life insurance agent license 800 Baht
- (8) License of a corporate life insurance broker 40,000 Baht
- (9) License of an individual life insurance broker 800 Baht
- (10) Application for an actuary license 500 Baht
- (11) Actuary license 20,000 Baht
- (12) Replacements for every type of license 400 Baht
- (13) Annual fee for the undertaking of a life insurance business 200,000 Baht
- (14) Renewal of a life insurance agent license (for one year) 400 Baht
- (15) Renewal of a life insurance agent license (for five years) 2,000 Baht
- (16) Renewal of a corporate life insurance broker license (for one year) 12,000 Baht
- (17) Renewal of a corporate life insurance broker license (for five years) 60,000 Baht
- (18) Renewal of an individual life insurance broker license (for one year) 400 Baht
- (19) Renewal of an individual life insurance broker license (for five years) 2,000 Baht
- (20) Renewal of an actuary license 12,000 Baht
- (21) Examination of documents (for each examination) 100 Baht
- (22) Extraction or certification of a copy of a document (per page) 100 Baht
- (23) Application for approval of the form and content of an insurance policy, relevant document, or annex (per form) 4,000 Baht
- (24) Application for approval of premium rates (per form) 4,000 Baht

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<sup>83</sup> Amended by the Life Insurance Act No. 2, B.E. 2551