

523C.11 Reserve account.

1. A service company shall maintain in an independent depository a reserve account consisting of unencumbered assets in an amount equal to fifty percent of aggregate annual fees collected on residential service contracts issued and outstanding in this state, if any, less actual expenditures for services rendered under those contracts. The assets shall be held in the form of cash or marketable securities.

2. The depository shall make its records concerning the service company reserve accounts available to the commissioner or a designee for inspection on the premises of the depository and, upon request, shall produce documents and records which the commissioner determines are necessary to verify the value and safety of the assets of the reserve account.

3. The commissioner may by rule designate institutions authorized to act as a depository under this section and may establish requirements for reserve accounts, reserve account agreements, or the method of valuing marketable securities which the commissioner believes necessary to protect the holders of residential service contracts issued and outstanding in this state.

4. For purposes of this section, "*aggregate annual fees*" does not include the annual fees collected on residential service contracts for which the service company has purchased contractual liability insurance which demonstrates to the satisfaction of the commissioner that one hundred percent of the service company's claim exposure related to such service contracts is covered by the insurance. The contractual liability insurance must be obtained from an insurer authorized to do business in this state and shall contain the following provisions:

a. If the service company is unable to fulfill its obligations under its contracts issued in this state for any reason, including insolvency, bankruptcy, or dissolution, the contractual liability insurer will pay losses and unearned premiums under such plans directly to the persons making claims under the contracts.

b. The insurer issuing the policy shall assume full responsibility for the administration of claims in the event of the inability of the association to do so.

c. The insurer shall not cancel or refuse to renew the policy unless sixty days' written notice has been given to the commissioner by the insurer before the date of the cancellation or nonrenewal.

83 Acts, ch 87, §12; 88 Acts, ch 1112, §707, 708; 92 Acts, ch 1078, §6