

THE PRESIDENT

Order No. 19/2010/L-CTN of December 6, 2010, on the promulgation of law

THE PRESIDENT OF THE SOCIALIST REPUBLIC OF VIETNAM

Pursuant to Articles 103 and 106 of the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10 of December 25, 2001, of the Xth National Assembly, the 10th session;

Pursuant to Article 91 of the Law on Organization of the National Assembly;

Pursuant to Article 57 of the Law on Promulgation of Legal Documents,

PROMULGATES:

the Law Amending and Supplementing a Number of Articles of the Law on Insurance Business,

which was passed on November 24, 2010, by the XIIth National Assembly of the Socialist Republic of Vietnam at its 8th session.

President of the Socialist Republic of Vietnam
NGUYEN MINH TRIET

Law Amending and Supplementing a Number of Articles of the Law on Insurance Business

(No. 61/2010/QH12)

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10;

The National Assembly promulgates the Law Amending and Supplementing a Number of Articles of Law No. 24/2000/QH10 on Insurance Business.

Article 1.

To amend and supplement a number of articles of the Law on Insurance Business.

1. To add the following Clauses 19 and 20 to Article 3:

“19. Retirement insurance means an operation of insurance in which the insurance enterprise shall pay an insurance sum to the insured when he or she reaches a specified age as agreed upon in the insurance policy.

20. Health insurance means an type of insurance in which the insurance enterprise shall pay an insurance sum to the insured when he or she is bodily injured, meets with accidents, suffers sickness or ailment or needs healthcare as agreed upon in the insurance policy.”

2. To amend and supplement Clause 1, Article 6 as follows:

“1. Organizations and individuals having demands for insurance may only participate in insurance at insurance enterprises operating in Vietnam; foreign-invested enterprises and foreigners working in Vietnam having demands for insurance may participate in insurance at insurance enterprises operating in Vietnam or use cross-border insurance services.”

3. To amend and supplement Article 7 as follows:

“**Article 7.** Types of insurance operations

1. Life insurance, including:

- a/ Whole life insurance;
- b/ Term insurance;
- c/ Last survivor insurance;
- d/ Combined insurance;
- e/ Annuity insurance;
- f/ Endowment insurance;
- g/ Retirement insurance.

2. Non-life insurance, including:

- a/ Property insurance and damage insurance;
- b/ Insurance for cargo transported by road, sea, inland waterway, railway and airway;
- c/ Aviation insurance;
- d/ Automobile insurance;
- e/ Fire and explosion insurance;
- f/ Vessel hull and vessel owners’ civil liability insurance;
- g/ Liability insurance;
- h/ Credit and financial risk insurance;
- i/ Business loss insurance;
- j/ Agricultural insurance;

3. Health insurance, including:

- a/ Human accident insurance;
 - b/ Medical insurance;
 - c/ Health care insurance.
4. Other insurance operations stipulated by the Government.
5. The Ministry of Finance shall make a detailed list of insurance products.”

4. To amend and supplement Article 9 as follows:

“Article 9. Reinsurance

Insurance enterprises may provide reinsurance for other insurance enterprises, including foreign insurance enterprises and foreign reinsurance organizations. Foreign insurance enterprises and foreign reinsurance organizations must get a credit rating assigned by an international credit rating company designated by the Ministry of Finance.”

5. To amend and supplement Article 10 as follows:

“Article 10. Cooperation, competition and bidding in insurance business

1. Insurance enterprises and insurance brokerage enterprises may cooperate with one another in reinsurance, co-insurance, loss assessment, settlement of insurance benefits, loss prevention and mitigation, human resource development, insurance product development, insurance agent training and management and information sharing for risk administration.

2. Insurance enterprises may compete with one another in terms of insurance conditions and coverage, liability levels, premium rates, service quality, insurance capability and financial capacity.

Competition must comply with the competition law and assure financial safety of insurance enterprises and insurance premium rates must conform with insurance conditions and coverage and liability levels.

3. Projects using state funds or assets of the State or state enterprises must carry out bidding for insurance conditions and coverage, liability levels, premium rates, service quality, insurance capability and financial capacity of insurance enterprises.

Bidding must be organized in a public and transparent manner according to this Law and the bidding law.

4. The following acts are prohibited:

- a/ Establishing collusion among insurance enterprises or between insurance enterprises and insurance buyers in order to divide the insurance market or monopolize insurance services;

- b/ Illegally intervening in the selection of insurance enterprises;
- c/ Abusing positions or powers to designate, request, constrain or obstruct organizations or individuals to participate in insurance;
- d/ Providing untruthful information or advertisement on insurance contents, operation scope and terms, causing harms to the lawful rights and interests of insurance buyers;
- e/ Fighting for customers by means of obstructing, inducing, buying off or intimidating employees or customers of other insurance enterprises, insurance agents or insurance brokerage enterprises;
- f/ Conducting illegal sales promotions;
- g/ Conducting other illegal acts in cooperation, competition and bidding.”

6. To amend and supplement Article 15 as follows:

“**Article 15.** Time of arising insurance liabilities

Insurance liabilities arise in any of the following cases:

1. The insurance policy has been concluded and the insurance buyer has fully paid insurance premiums;
2. The insurance policy has been concluded, containing an agreement between the insurance enterprise and the insurance buyer allowing the insurance buyer to owe insurance premiums;
3. There are proofs that the insurance policy has been concluded and the insurance buyer has fully paid insurance premiums.”

7. To amend and supplement Article 59 as follows:

“**Article 59.** Insurance business organizations

Insurance business organizations include:

1. Joint-stock insurance company;
2. Limited-liability insurance company;
3. Insurance cooperative;
4. Mutual support insurance organization.”

8. To add the following Clause 5 to Article 63:

“5. Organizations and individuals that contribute capital to establish insurance enterprises or insurance brokerage enterprises must be financially capable and have evidence proving their lawful financial sources for contributing capital to establish insurance enterprises.”

9. To amend and supplement Points g and h, Clause 1, Article 69 as follows:

g/ Chairman of the Board of Directors, director general (director) and actuaries;

h/ Division, separation, merger, consolidation, dissolution, transformation of enterprises and offshore investment.”

10. To amend and supplement Point c, Clause 1, Article 86 as follows:

“c/ Having insurance agent’s certificates, granted by a training institution accredited by the Ministry of Finance.

The Ministry of Finance shall stipulate training programs, contents and forms and the grant of insurance agent’s certificates.”

11. To amend and supplement Article 97 as follows:

“**Article 97.** Reserve funds and insured person protection funds

1. An insurance enterprise or insurance brokerage enterprise shall set up a compulsory reserve fund in order to supplement its charter capital and ensure its solvency. The annual deduction level for setting up this compulsory reserve fund is 5% of after-tax profits. The maximum level of this fund shall be stipulated by the Government.

2. In addition to the compulsory reserve fund prescribed in Clause 1 of this Article, an insurance enterprise or insurance brokerage enterprise may set up other reserve funds from after-tax profits earned in the fiscal year as provided in its charter.

3. The insured person protection fund shall be set up to protect the insured’s interests in case an insurance enterprise falls bankrupt or becomes insolvent.

The insured person protection fund shall be set up with deductions at a certain percentage of insurance premiums from all insurance policies.

The Government shall stipulate the deduction for setting up, management and use of the insured person protection fund.”

12. To amend and supplement Article 105 as follows:

“**Article 105.** Forms of operation

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

a/ Limited-liability insurance company, limited-liability insurance brokerage company;

b/ Branches of foreign non-life insurance enterprises.

2. Foreign insurance enterprises and insurance brokerage enterprises may provide cross-border insurance services under the Government's regulations.

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

13. To amend and supplement Article 108 as follows:

“Article 108. Licensing competence

The Ministry of Finance shall grant establishment and operation licenses to foreign-invested insurance enterprises and insurance brokerage enterprises and branches of foreign non-life insurance enterprises; and licenses for setting up Vietnam-based representative offices of foreign insurance enterprises and insurance brokerage enterprises.”

14. To amend and supplement Clause 4, Article 120 as follows:

“4. Supervising insurance business activities through professional operations, financial situation, business administration, risk administration and law observance of insurance enterprises and insurance brokerage enterprises; applying necessary measures so that insurance enterprises ensure financial requirements and fulfill their commitments to insurance buyers;”

15. To amend and supplement Article 122 as follows:

“Article 122. Specialized insurance inspectorate

1. The state management agency in charge of insurance business shall perform the function of the specialized insurance inspectorate.

2. The organization and operation of the specialized insurance inspectorate comply with this Law and the inspection law.”

16. To add the following Clause 3 to Article 127:

“3. Insurance agency training certificates which were granted before the effective date of this Law remain valid and are not required to be converted into insurance agent's certificates.”

Article 2.

1. This Law takes effect on July 1, 2011.

2. The Government shall detail and guide articles and clauses assigned to it in this Law; and guide other necessary contents of this Law to meet state management requirements.

This Law was passed on November 24, 2010, by the XIIth National Assembly of the Socialist Republic of Vietnam at its 8th session.-

Chairman of the National Assembly
NGUYEN PHU TRONG

www.LuatVietnam.vn