

5-708. RELEASE OF DEPOSITS.

(A) IN GENERAL.

A DEPOSIT MADE BY AN INSURER UNDER THIS SUBTITLE SHALL BE RELEASED AND RETURNED:

(1) TO THE INSURER WHEN SUBSTANTIALLY ALL LIABILITY OF THE INSURER THAT THE DEPOSIT SECURES IS EXTINGUISHED BY AUTHORIZED REINSURANCE OR OTHERWISE;

(2) TO THE INSURER, IF SOLVENT, TO THE EXTENT THAT THE DEPOSIT EXCEEDS THE AMOUNT REQUIRED TO BE DEPOSITED UNDER THIS ARTICLE; OR

(3) ON ORDER OF A COURT OF COMPETENT JURISDICTION, TO THE RECEIVER, CONSERVATOR, REHABILITATOR, OR LIQUIDATOR OF THE INSURER, OR TO ANY OTHER PROPERLY DESIGNATED OFFICIAL WHO SUCCEEDS TO THE MANAGEMENT AND CONTROL OF THE INSURER'S ASSETS.

(B) ON ORDER OF COMMISSIONER.

EXCEPT FOR A RELEASE MADE UNDER SUBSECTION (A)(3) OF THIS SECTION, A RELEASE OF DEPOSITED CASH OR GOVERNMENT SECURITIES MAY BE MADE ONLY ON APPLICATION TO AND WRITTEN ORDER OF THE COMMISSIONER.

(C) LIABILITY OF COMMISSIONER.

IF THE RELEASE IS MADE IN GOOD FAITH, THE COMMISSIONER IS NOT PERSONALLY LIABLE FOR THE RELEASE OF ANY DEPOSIT OR PART OF A DEPOSIT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 48A, §§ 116 and 118.

In the introductory language of subsection (a) of this section, the phrase "by an insurer" is added for clarity.

Also in the introductory language of subsection (a) of this section, the reference to a deposit made "under this subtitle" is substituted for the former broader reference to a deposit made "under this article" to reflect that the provisions of this section govern only the deposits described in § 5-701(a). C.f. § 5-806 of this title, which governs withdrawals of deposits of trustee assets. Correspondingly, the former reference to a deposit made "in this State" is deleted as unnecessary since all deposits "under this subtitle" are made in this State under §§ 5-701 and 5-702.

In subsection (a)(2) of this section, the phrase "if solvent" is added to clarify that an excess deposit may be released only to a solvent insurer. This addition conforms to § 5-704(b)(1) of this subtitle, and to administrative practice.

Also in subsection (a)(2) of this section, the reference to the excess over the amount required "to be deposited under this article" is added for clarity.