§ 4117. Loss and loss expense reserves. (a) In determining the financial condition of any property/casualty insurance company for the purpose of applying the provisions of this chapter, and in any financial statement or report of any such company, there shall be included in the liabilities of such company loss reserves and loss expense reserves at least equal to the amounts required under the provisions of this section, and the amount of such reserves shall be diminished by allowance or credit for reinsurance recoverable from assuming insurers in accordance with paragraph nine of subsection (a) of section one thousand three hundred one of this chapter. The date as of which such determination, statement or report is made is hereinafter referred to as the date of determination.

(b) For all outstanding losses and loss expenses, the reserves shall include the following:

(1) the aggregate estimated amounts due or to become due on account of all known losses and claims and loss expenses incurred but not paid, including the estimated liability on any notice received by the company of the occurrence of any event which may result in a loss;

(2) the aggregate amounts of liability for all losses and loss expenses incurred but on which no notice has been received, estimated in accordance with the company's prior experience, if any, otherwise in accordance with the experience of similar companies under similar contracts of insurance. The estimated liabilities for such losses under all its bonds, policies or contracts of fidelity insurance, shall be not less than ten percent of the net premiums in force thereon, and the estimated liabilities for all such losses under all its surety contracts shall be not less than five percent of the net premiums in force thereon.

(c) Except as provided in subsection (e) hereof the minimum reserves for outstanding losses and loss expenses under policies of personal injury liability insurance and under policies of employers' liability insurance, where the losses were incurred during the three years immediately preceding the date of determination, shall be calculated in accordance with any method adopted or approved by the National Association of Insurance Commissioners and shall be not less than the aggregate of the estimated unpaid losses and loss expenses for claims incurred computed in accordance with subsection (b) hereof.

(d) The minimum reserves for outstanding losses and loss expenses under policies of workers' compensation insurance, except as provided in subsection (e) hereof, shall be computed as follows:

(1) For all such compensation policies where losses were incurred more than three years prior to the date of determination, such reserves shall be the sum of the present values, at five percent interest per annum, of the determined and estimated unpaid losses computed on an individual case basis plus the estimated unpaid loss expenses computed in accordance with subsection (b) hereof.

(2) Where losses were incurred during the three years immediately preceding the date of determination, such reserves shall be the sum of the reserves for each year, which shall be calculated in accordance with any method adopted or approved by the National Association of Insurance Commissioners and shall be not less than the sum of the present values, at five percent interest per annum, of the determined and estimated unpaid losses computed on an individual case basis plus the estimated unpaid loss expenses computed in accordance with subsection (b) hereof.

(e) Whenever in the judgment of the superintendent, the loss and loss expense reserves of any property/casualty insurance company doing business in this state calculated in accordance with the foregoing provisions are inadequate or excessive, he may prescribe any other basis which will produce adequate and reasonable reserves.

(f) Every property/casualty insurance company doing business in this state shall keep a complete and itemized record showing all losses and claims on which it has received notices including all notices received by it of the occurrence of any event which may result in a loss.

(g) (1) Effective with the nineteen hundred ninety annual statement, every licensed property/casualty insurer required to file such annual statement with the superintendent by the following April first, shall, unless exempted by the superintendent, engage a qualified independent loss reserve specialist for the following year to render an opinion as to the adequacy of its loss and loss adjustment expense reserves when two of three of such insurer's results of its loss and loss adjustment expense ratios as indicated below are outside of the indicated acceptable ranges:

(A) One Year Reserve Development to Surplus

Add the year-end estimate of the losses that were outstanding one year earlier to the payments on those losses made during that year. The difference between that sum and the reserves that were established at the end of the prior year is the one-year reserve development. The ratio of one-year reserve development to prior year's surplus is the deficiency or redundancy. The acceptable range is less than twenty-five percent deficiency. Any redundancy is acceptable.

(B) Two Year Reserve Development to Surplus

Add the year-end estimate of the losses that were outstanding two years earlier to the payments on those losses made during those two years. The difference between that sum and the reserves that were established at the end of the second prior year is the two-year reserve development. The ratio of two-year reserve development to the second prior year's surplus is the deficiency or redundancy. The acceptable range is less than twenty-five percent deficiency. Any redundancy is acceptable.

(C) Estimated Current Reserve Deficiency to Surplus

For the last two years the reserves as stated in those years are adjusted by the one-year or two-year reserve development as calculated in the above two ratios. This total is then divided by the net premium earned in the appropriate year to obtain the developed reserve to premium ratio. The estimated reserves required is the current net premium earned multiplied by the average ratio between developed reserves and earned premium for the last two years. The estimated deficiency is the difference between the estimated reserves required by the company and the actual reserves maintained. The estimated current reserve deficiency or redundancy is taken as a percentage of surplus and the acceptable range is less than twenty-five percent deficiency. Any redundancy is acceptable.

(2) Such opinion shall be submitted by the qualified loss reserve specialist to the insurer and the superintendent, by such date established by the superintendent. For the purposes of this section, a "qualified independent loss reserve specialist" shall mean a person who is not an employee, principal or director or indirect owner of the insurer and is a member of the Casualty Actuarial Society, or has such

other experience as is acceptable to the superintendent to assure a professional opinion on the adequacy of loss and loss adjustment expense ratios.

(3) Nothing in this subsection shall be construed to restrict or diminish any right or power of the superintendent under any other provision of this chapter.

(4) The superintendent shall keep the contents of each report made pursuant to this subsection and any information obtained in connection therewith confidential and shall not make the same public without the prior written consent of the insurer to which it pertains unless the superintendent after notice and an opportunity to be heard shall determine that the interests of policyholders, shareholders or the public will be served by the publication thereof.