

59A-5-16. Capital funds, deposits, required for certificate of authority.

A. To qualify for certificate of authority to transact any one kind or combination of kinds of insurance in this state, an insurer shall possess:

(1) if a stock insurer, paid-in capital stock and, when first so authorized, surplus all as shown in Schedule I of this section; or

(2) if a mutual, reciprocal or Lloyds insurer, basic capital surplus, including guaranty funds, if any, and additional unassigned surplus when first so authorized, as required under Schedule I of this section.

B. Except that an insurer that on January 1, 1985, having applied for a certificate on or before February 15, 1984, held a valid and subsisting certificate of authority to transact insurance in this state may, if a domestic insurer, continue to be so authorized until December 31, 1995, so long as otherwise qualified therefor and possessing paid-in capital stock, if a stock insurer, or basic capital surplus, if a mutual, reciprocal or Lloyds insurer, not less than that required of the insurer by the laws of this state in force on January 1, 1986; and if a foreign insurer, may so continue to be so authorized, if otherwise qualified therefor, while possessing such capital funds (paid-in capital stock and surplus if a stock insurer, and surplus if a mutual or reciprocal insurer) until December 31, 1990. At the expiration of such period, as applicable, the insurer shall meet the basic capital requirements of this section as set forth in Schedule I of this section in order to maintain its certificate of authority. Upon a change in the control of either a domestic insurer or foreign insurer, the insurer shall, within one year from effective date of such change of control, meet the capital funds requirements of Schedule I of this section as though a newly authorized insurer, but this sentence shall not act to extend the otherwise applicable time period. For the purposes of this subsection, "control" shall have the meaning ascribed in Section [59A-37-2](#) NMSA 1978.

C. The capital funds required for authority to transact insurance in this state shall be based upon all the kinds of insurance the insurer transacts, wherever transacted or to be transacted.

D. This section shall not apply as to domestic Lloyds plan insurers as identified in Chapter [59A](#), Article [38](#) NMSA 1978 except as stated in that article.

E. The capital requirements of this section are set forth in the following schedule:

Minimum Capital, Surplus and Deposit Requirements

Property/Casualty Insurer

Premium Volume:		Under \$5 Million	\$5 to \$10 Million	\$10 to \$25 Million	Over \$25 Million
	Number of Kinds of Insurance				
	1	2			
Basic Capital	500,000	600,000	800,000	900,000	1,000,000
Additional Surplus	500,000	600,000	same as Under \$5 Million	same as Under \$5 Million	same as Under \$5 Million
General Deposit	200,000	300,000	500,000	500,000	500,000
Special Deposit	200,000	300,000	same as Under \$5 Million	same as Under \$5 Million	same as Under \$5 Million

Life/Health Insurer

Premium Volume:	Under \$5 Million	\$5 to \$10 Million	\$10 to \$25 Million	Over \$25 Million
Basic Capital	600,000	700,000	800,000	900,000
Additional Surplus	400,000	400,000	400,000	400,000
General Deposit	200,000	200,000	200,000	200,000
Special Deposit	200,000	200,000	200,000	200,000

Notes: Premium Volume means the insurer's worldwide direct premiums earned (if Property/Casualty) or received (if Life/Health) during the previous calendar year.

Kinds of insurance pertains to the general kinds of insurance that property/casualty insurers are authorized to transact.

The following groups or single kinds of insurance shall be counted as one kind of insurance when calculating the amount of required Basic Capital, Additional Surplus, General Deposit and Special Deposit:

Casualty;
Property; and
Title.

When determining Basic Capital and Additional Surplus amounts, the kinds of Insurance shall be based on the insurer's actual or requested transaction authority Worldwide.

When determining General Deposit and Special Deposit amounts, the kinds of Insurance shall be based on the insurer's actual or requested transaction authority in New Mexico.

"Basic Capital" means paid-in capital stock (if a stock insurer) or basic capital surplus (if a mutual, reciprocal or Lloyds insurer). General Deposit or Special Deposit funds are included within, and are not additional to, required Basic Capital and Additional Surplus. General Deposit amounts shown above are not applicable to alien insurers.

History: Laws 1984, ch. 127, § 83; 1987, ch. 259, § 4; 1987, ch. 262, § 1; repealed and reenacted by Laws 2007, ch. 282, § 1; 2016, ch. 89, § 1.