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## INSURANCE CODE - INS

**DIVISION 1. GENERAL RULES GOVERNING INSURANCE [100 - 1879.8]** ( *Division 1 enacted by Stats. 1935, Ch. 145.*  )

**PART 2. THE BUSINESS OF INSURANCE [680 - 1879.8]** ( *Part 2 enacted by Stats. 1935, Ch. 145.*  )

**CHAPTER 2. Incorporated Insurers [1140 - 1260]** ( *Chapter 2 enacted by Stats. 1935, Ch. 145.*  )

**ARTICLE 1. General [1140 - 1142]** ( *Heading of Article 1 amended by Stats. 1945, Ch. 27.*  )

**1140.** Except as otherwise provided in this code, incorporated insurers are subject to the provisions of the general corporation law in like manner with other corporations.

(Enacted by Stats. 1935, Ch. 145.)

**1140.1.** (a) A domestic incorporated life insurer may be organized under the Nonprofit Mutual Benefit Corporation Law. With the prior consent of the commissioner, an existing domestic incorporated life insurer organized under the general corporation law may be converted to a domestic incorporated life insurer under the Nonprofit Mutual Benefit Corporation Law pursuant to Section 911 of the Corporations Code. The consent shall be obtained by filing an application accompanied by any information that the commissioner may require, and by submitting a filing fee of seven thousand dollars (\$7,000).

(b) Except as otherwise provided in this code, a domestic incorporated life insurer organized under the Nonprofit Mutual Benefit Corporation Law shall be subject to that law in the same manner as other corporations organized under that law. In the case of a conflict between the Insurance Code and the Nonprofit Mutual Benefit Corporation Law, the provisions of the Insurance Code shall prevail.

(c) A life insurer organized under the Nonprofit Mutual Benefit Corporation Law shall have the same powers held by, and shall be subject to all provisions of this code applicable to, a domestic incorporated stock life insurer, except for Section 1140. An insurer so organized shall have a surplus (in lieu of paid-in capital and surplus) at least equal to the sum of the paid-in capital and surplus required of a stock insurer admitted for the same classes. In addition, an insurer so organized shall be subject to the same premium tax obligations as a stock insurer.

(d) Officers, directors, and other managers of domestic life insurers organized under the Nonprofit Mutual Benefit Corporation Law shall not be entitled to any rights, preferences, or privileges that are not allowed for the officers, directors, or managers of an insurer of the same class organized under the general corporation law.

(e) For a life insurer organized under the Nonprofit Mutual Benefit Corporation Law, all references in this code to "shareholders" shall be interpreted to mean "members," and all references to "shares," "stocks," or "securities" shall mean "memberships," as defined in the Nonprofit Mutual Benefit Corporation Law.

(f) The issuance of memberships to policyholders that are not natural persons shall be subject to the provisions of Article 8 (commencing with Section 820) of Chapter 1 of Part 2 of Division 1. A domestic incorporated life insurer organized under the Nonprofit Mutual Benefit Corporation Law shall have at least one member. The redemption of memberships, other than for policyholders that are not natural persons, shall be subject to the same rules as those applicable to the payment of dividends by a domestic incorporated stock life insurer.

(Added by Stats. 2004, Ch. 376, Sec. 1. Effective January 1, 2005.)

**1140.5.** (a) Notwithstanding any other law, a copy of every form of proxy or written consent or authorization for use at any meeting or proceeding of shareholders or stockholders of any domestic insurer to evidence authority to cast the vote of any shareholder or stockholder, or to record the consent or the authorization of any shareholder or stockholder to any action of the insurer, and a copy of every solicitation, announcement, or advertisement used to obtain, or to influence any shareholder or stockholder to sign, any proxy, or written consent or authorization shall be filed with the commissioner, accompanied by a filing fee of one hundred thirty-six dollars (\$136), by the person intending to use, issue, publish, or circulate the document. This document shall not be used, issued, published, or circulated before a period of 10 days following the date of its filing, or any shorter period that may be designated by the

commissioner, has elapsed. Within the 10-day or a shorter period, the commissioner may disapprove of any document filed with him or her pursuant to this section, stating his or her reasons therefor in writing, in which case, the document shall not be used, issued, published, or circulated.

(b) Any person who fails to make the filing required by this section and who thereafter uses any document required to be filed, uses the document before it has been filed with the commissioner for the period required, or uses the document after receiving written notice that the document has been disapproved by the commissioner is guilty of a misdemeanor. It shall be unlawful to use any proxy or consent obtained in violation of this section. The superior court of the State of California in and for the county in which is located the principal place of business of the insurer shall have jurisdiction to enforce this section and the regulations promulgated pursuant to this section, and to grant appropriate relief upon the verified petition of the commissioner, the domestic insurer, or any of its shareholders or stockholders.

(c) The purposes of this section are: to ensure that the shareholders, stockholders, or other persons entitled to vote or give written consents or authorizations are provided with adequate and accurate information regarding the affairs of the insurers in which they have interests, the interests of those soliciting proxies or written consents or authorizations and of those upon whose behalf the solicitations are made, and the matters as to which proxies, written consents, or authorizations are solicited; and to prevent fraud or deception in connection with proxies, proxy statements, or other proxy solicitations. The commissioner may make rules and regulations in furtherance of the purposes of this section. These rules and regulations may differ as to different classes and types of insurers.

(d) This section shall not apply to any domestic insurer having fewer than 100 shareholders or stockholders and shall not apply to any domestic insurer if 95 percent or more of its stock is owned or controlled by a parent or an affiliated insurer and the remaining shares of stock are owned by fewer than 500 shareholders or stockholders. Any domestic insurer that files with the federal Securities and Exchange Commission forms of proxies, consents, and authorizations complying with the requirements of the federal Securities Exchange Act of 1934 (15 U.S.C. Sec. 78a et seq.) and the amendments thereto and the applicable regulations thereunder, is exempt from this section.

*(Amended by Stats. 2017, Ch. 534, Sec. 25. (AB 1699) Effective January 1, 2018.)*

**1141.** No director, trustee, officer or agent of any insurer shall be subject to personal liability by reason of any payment or any determination not to contest or seek recovery of any payment made subsequent to June 4, 1944, or hereafter made, by or on behalf of such insurer on account of any tax, license, fee, deposit or other charge paid pursuant to the terms of any statute, law or ordinance of this or any other State, county, city or taxing authority, unless prior to such payment or determination such statute, law or ordinance shall have been judicially rendered invalid by action of the State court having final appellate jurisdiction in the premises or by action of the Supreme Court of the United States. This section is applicable not only to directors, trustees, officers and agents of insurers generally but also to reciprocal or interinsurance exchanges, members of their subscribers' boards, their attorneys in fact and any director, trustee, officer and agent thereof.

*(Added by Stats. 1945, Ch. 27.)*

**1142.** In situations of hardship, financial embarrassment or where other good cause is shown the commissioner may, in his discretion, by written order, permit an insurer to acquire by gift, devise, bequest or other transfer an asset, or a part thereof, not otherwise permissible, or retain an asset, however obtained. Such order, or any amendments thereto, shall specify the asset and the mode of acquisition or retention which is to be permitted and shall specify such reasonable time as the commissioner may determine in his discretion for the retention, or further retention of such asset. At the end of such time or earlier if he determines circumstances warrant such action the commissioner may invoke the procedure of Section 1202 for the purpose of requiring the insurer to dispose of the asset, or a part thereof, so acquired or held.

This section shall not apply to any asset of an insurer which:

- (1) Has been held for 25 years or more, and
- (2) Consists entirely of corporate securities, and
- (3) The value does not exceed more than one-tenth of 1 percent of the total assets of the insurer.

The insurer may retain such an asset.

*(Added by Stats. 1965, Ch. 1547.)*