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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 3. Reciprocal Insurers [1280 - 1560.19] (*Chapter 3 enacted by Stats. 1935, Ch. 145.*)

ARTICLE 2. Organization of Exchange [1300 - 1315] (*Article 2 enacted by Stats. 1935, Ch. 145.*)

1300. Any persons may exchange reciprocal or interinsurance contracts with one another providing insurance, other than life, title, mortgage, mortgage guaranty, or insolvency insurance, among themselves against any loss which may be insured against under other provisions of law.

(Amended by Stats. 1971, Ch. 341.)

1301. Such persons are termed subscribers.

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

1302. Any domestic corporation, in addition to the rights, powers and franchises specified in its articles of incorporation, has full power and authority to enter into insurance contracts of the kind and character mentioned in this chapter. The right to enter into such contracts is incidental to the purposes for which such corporations are organized and as fully granted as the rights and powers expressly conferred.

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

1303. The organization under which such subscribers so exchange contracts is termed a reciprocal or interinsurance exchange, and shall be deemed the insurer while each subscriber shall be deemed an insured.

(Amended by Stats. 1963, Ch. 1649.)

1305. Such contracts may be executed by an attorney-in-fact, agent or other representative duly authorized and acting for such subscribers under powers of attorney. Such authorized person is termed the attorney, and may be a corporation.

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

1306. The principal office of the attorney shall be maintained at a place designated by the subscribers in the power of attorney.

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

1307. The power of attorney and contracts made thereunder may:

- (a) Provide for the right of substitution of attorney and revocation of the contract or power.
- (b) Impose such restrictions upon the exercise of the power as are agreed upon by the subscribers.
- (c) Provide for and limit the maximum amount to be paid by subscribers, except that contracts of exchanges writing either liability or workers' compensation insurance shall be subject to the provisions of Article 6 of this chapter.
- (d) Provide for the exercise of any right reserved to the subscribers directly or through a board or other body.

(Amended by Stats. 2018, Ch. 231, Sec. 6. (AB 2045) Effective January 1, 2019.)

1308. The body exercising the subscribers' rights shall be selected under such rules as the subscribers adopt. It shall supervise the finances of the exchange and shall supervise its operations to such extent as to assure conformity with the subscriber's agreement and power of attorney.

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

1309. Such body shall have authority to procure the audit of the accounts and records of the exchange and of the attorney-in-fact, at the expense of the exchange.

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

1310. Such body shall be composed of subscribers or agents of subscribers. Not more than one-third of the members serving on such body shall be agents, employees or shareholders of the attorney.

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

1310.1. The board of a reciprocal or interinsurance exchange operating pursuant to Section 1284 shall be composed of members of the governing board of the hospital, the participating members of its attending medical staff, and health care consumers.

(Added by Stats. 1976, Ch. 1465.)

1311. A reciprocal or interinsurance exchange may engage in the surety insurance business in this state only provided its surplus is at least twice the amount required as paid-in capital of an incorporated insurer writing the same classes of insurance by the provisions of Section 700.01. Paid-in capital as used in this section shall not include any of the surplus amounts required of incorporated insurers by the provisions of Sections 700.02, 700.03 and 700.05 of this code.

Any such reciprocal or interinsurance exchange shall be subject to such of the provisions of Chapter 1, except Sections 12050, 12051, and 12052, Part 4, Division 2, as can be made applicable to the nature of a reciprocal or interinsurance exchange.

(Amended by Stats. 1971, Ch. 341.)

1312. (a) Any reciprocal or interinsurance exchange, domestic or foreign, which has obtained a certificate of capability to reinsure or a favorable order under Section 1401.5 and whose subscribers by such order have no liability for assessment, may accept reinsurance of risks for all classes of insurance which it writes in California including the class in which such reinsurance is to be accepted.

(b) Contracts accepting such reinsurance shall be entered into between the ceding insurer and the reinsuring reciprocal or interinsurance exchange by its attorney in fact. The ceding insurer need not become a member of or a subscriber to the reinsuring reciprocal or interinsurance exchange and such contracts of reinsurance may contain any or all of the terms and conditions customary in reinsurances of the classes of insurance covered.

(Added by Stats. 1965, Ch. 504.)

1313. Nothing in Chapter 504 of the Statutes of 1965 shall limit or affect the right of an admitted foreign reciprocal or interinsurance exchange to accept reinsurance.

(Added by Stats. 1965, Ch. 1805.)

1314. Any reciprocal or interinsurance exchange, domestic or foreign, which has obtained a certificate of surplus under Section 1401, and whose subscribers by such order have no liability for assessment, may issue a policy of insurance required under Article 4 (commencing with Section 11620) of Chapter 1 of Part 3 of Division 2 of this code without requiring such insured to become a member of or a subscriber to such reciprocal or interinsurance exchange.

The attorney-in-fact, agent, or other representatives duly authorized and acting for the regular subscribers of such reciprocal or interinsurance exchange, shall have the same power and authority to act for any such person becoming an insured under Article 4 (commencing with Section 11620) of Chapter 1 of Part 3 of Division 2 of this code as authorized or required under any documents required to be filed with the commissioner under Article 3 (commencing with Section 1320) of Chapter 3 of Part 2 of Division 1 of this code.

(Added by Stats. 1969, Ch. 103.)

1315. A reciprocal exchange or interinsurance exchange may borrow money to defray the expenses of its organization, provide it with surplus funds, or for any purpose of its business, upon a written agreement that the money is required to be repaid only out of the exchange's surplus in excess of that stipulated in the agreement. The agreement may provide for fixed or variable interest not exceeding an amount allowed by the commissioner, which interest shall or shall not constitute a liability of the exchange as to its funds other than the excess that is stipulated in the agreement. Any agreement of this type shall provide that all interest payments and principal repayments require prior approval by the commissioner. Unless otherwise approved by the commissioner, written agreements evidencing this borrowed money shall not be issued in units of less than ten thousand dollars (\$10,000). Unless otherwise allowed by the commissioner, no commission or promotion expense shall be paid in connection with any loan of this type.

An agreement to borrow money to provide surplus funds, or for any business purpose, may be termed a surplus note. No surplus note or other agreement may be issued unless it conforms to the requirements set forth at the time the note is issued in the Accounting Practices and Procedures Manual adopted by the National Association of Insurance Commissioners for the reporting of agreements as surplus and not as debt in the financial statements required to be filed by an insurer with the commissioner. No permit or other agreement shall constitute authorization or approval for any other issuance of securities that is connected to the note or agreement in any way.

(Added by Stats. 2004, Ch. 4, Sec. 1. Effective January 21, 2004.)