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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 5. Finances [1370 - 1375]** ( *Article 5 enacted by Stats. 1935, Ch. 145.*  )

**1370.** Every exchange shall maintain its required assets in any one, or more, or all of the following forms:

- (a) In cash or deposits in solvent banks.
- (b) Invested in securities of the kind designated for the investment of assets of incorporated insurers having a capital stock by the laws of the state where the principal office is located.
- (c) Invested in real property acquired by or for it to secure the payment of loans heretofore contracted or for moneys heretofore due, or purchased at sales upon deeds of trust or upon judgments obtained for the loans or debts, or conveyed to it in satisfaction of debts heretofore contracted in the course of its dealings. The real property may be acquired, held, and conveyed on behalf of the exchange in trust by the attorney, but shall be sold and disposed of within five years after acquisition of title thereto unless the time for any such sale or disposal is extended by the commissioner in writing.
- (d) Excess fund investments may be made in real estate and in making improvements thereon for business or residential purposes as an investment for the production of income. "Business or residential purposes" does not include real estate primarily intended for use or valued as agricultural, horticultural, farm, ranch, or mineral property. Any such investment may be made only by admitted exchanges having admitted assets aggregating in value not less than twenty-five million dollars (\$25,000,000). Real estate acquired and improvements made thereon shall not exceed an amount equal to 5 percent of the admitted assets of the exchange. Any investment in a single parcel of real estate including improvements thereon made under the authority of this subdivision shall not be made in an amount in excess of 1 percent of the admitted assets of the exchange. The percentage or dollar value of assets as provided in this subdivision shall be determined by the exchange's last preceding annual statement of conditions and affairs made as of the December 31 last preceding and which has been filed with the commissioner pursuant to law.
- (e) In addition to the investments authorized by subdivisions (a) to (d), inclusive, every exchange may purchase, hold, or reconvey real estate for any of the following purposes:
  - (1) The building, and the land upon which that building stands, owned by it and in which is located its home office or principal office in this state by virtue of the occupancy thereof, in whole or in part, by its attorney-in-fact. The exchange may make any type of arrangement which is fair and reasonable for the occupation of the building, in whole or in part, by its attorney.
  - (2) Real estate requisite for its accommodation in the convenient transaction of its business.
- (f) Subject to the limitations established under subdivisions (c), (d), and (e), every exchange in its own name as in the case of an individual, may purchase, receive, own, hold, lease, mortgage, pledge, or encumber, by deed of trust or otherwise, manage, and sell real estate for the purposes and objects of the exchange.

(Amended by Stats. 1985, Ch. 106, Sec. 94.)

**1370.2.** Except as in this article (commencing with Section 1370) otherwise provides, every exchange subject to this chapter (commencing with Section 1280) shall on and after October 1, 1961, be governed for all purposes as to required minimum surplus, (including that for admission, amendment of certificate of authority and solvency) by the same standards for minimum paid-in capital and surplus applicable to capital stock insurers. As used in this chapter surplus of an exchange is the amount by which its assets exceed a sum sufficient to discharge all its liabilities. When the standard prescribed for capital stock insurers consists of an amount of minimum paid-in capital the minimum surplus required of the exchange shall be such amount, and when the standard prescribed

for capital stock insurers consists of an amount of minimum paid-in capital and an amount of surplus the minimum surplus required of the exchange shall be the aggregate of such amounts.

This section shall not affect the provisions of Section 1401.

*(Added by Stats. 1961, Ch. 454.)*

**1370.4.** An exchange admitted prior to October 1, 1961, shall be exempt from the provisions of Section 1370.2 until it replaces its attorney in fact, except when the replacement is in strict compliance with a contract between the exchange and its current attorney in fact entered into prior to October 1, 1961, or the effective legal control of its attorney in fact passes, by means other than by way of judicial process (including but not limited to: probate proceedings, bankruptcy proceedings or an action by a dissident minority interest to force a sale or partition of the attorney in fact) to persons none of whom had a proprietary interest therein on October 1, 1961, subject to the further provisions of this section and to the provisions of Section 1370.8.

While exempted from the provisions of Section 1370.2 as modified by Section 1370.8, such an exchange shall be subject to and comply with the surplus requirements provided in this chapter (commencing with Section 1280) immediately prior to October 1, 1961.

The exemption from Section 1370.2 provided by this section shall be progressively abolished so that on and after the dates specified in the left-hand column of the following table every exchange shall be required to maintain at least a minimum surplus equal to that percentage of the minimum paid-in capital required by this code of capital stock insurers transacting the same classes of insurance which is set forth in the right-hand column of the following table.

|                       |      |
|-----------------------|------|
| January 1, 1967 ..... | 20%  |
| January 1, 1970 ..... | 40%  |
| January 1, 1973 ..... | 70%  |
| January 1, 1976 ..... | 100% |

In a case where the provisions of Section 1370.8 become applicable any additional minimum surplus required by that section shall be in addition to any required under the provisions of this paragraph.

*(Amended by Stats. 1965, Ch. 181.)*

**1370.8.** Any exchange exempted at any time from the provisions of Section 1370. 2 shall irrespective of such exemption be subject to the provisions of this section. No amended certificate of authority adding classes of insurance shall be issued to the attorney in fact of any such exchange on or after October 1, 1961, unless at the time of the amendment the exchange has a surplus equal in the aggregate to the sum of the surplus amount it was required to maintain by the provisions of this chapter (commencing with Section 1280) as the same were in effect immediately prior to October 1, 1961, plus the aggregate amount of additional minimum amount of capital and surplus which, at the time of such amendment, would be required of a capital stock insurer by the provisions of this code in order to add the same classes of insurance to its certificate of authority if it were authorized at the time of the amendment to transact the same classes of insurance as those which the attorney in fact of such reciprocal is authorized to transact.

*(Added by Stats. 1961, Ch. 454.)*

**1371.** If an exchange does either liability or workers' compensation insurance, it shall at all times maintain assets in a sum sufficient to discharge all liabilities and to provide a surplus over all liabilities of one hundred thousand dollars (\$100,000).

An exchange subject to the provisions of this section is also subject to the provisions of Sections 1370.2, 1370.4, and 1370.8.

*(Amended by Stats. 2018, Ch. 231, Sec. 7. (AB 2045) Effective January 1, 2019.)*

**1372.** Every other exchange shall maintain at all times assets in a sum sufficient to discharge all liabilities and to provide a surplus over all liabilities of fifty thousand dollars (\$50,000).

An exchange subject to the provisions of this section is also subject to the provisions of Sections 1370.2, 1370.4, and 1370.8.

*(Amended by Stats. 1961, Ch. 454.)*

**1373.1.** No certificate of authority, other than a renewal certificate of authority, shall be issued to the attorney within three years from and after the time when the exchange commences business as an insurer nor within three years from and after the time it is first organized unless assets equal to the sum of its liabilities and the minimum surplus required by this chapter are maintained in cash or one or more of the following:

(a) Securities specified in Sections 1170 to 1175 inclusive;

(b) Bonds specified in Section 1176, if such bonds are legal for investment of savings banks in this State;

(c) Such securities specified in Sections 1178 to 1202, inclusive, as are legal for investment of savings banks in this State;

(d) Premiums in course of collection, or agents' balances representing premiums, on policies effected not more than 90 days prior to the date on which such premiums or balances are valued for the purposes of this section, and earned service fees receivable, not over 90 days due, and evidences of debt representing such assets;

(e) Interest accrued and dividends declared, receivable on any of the assets specified in subsections (a) to (d), inclusive, no part of which interest or dividends has been due in excess of one year;

(f) Amount of reinsurance recoverable from admitted insurers.

*(Added by Stats. 1951, Ch. 544.)*

**1373.2.** (a) Except as provided in subsection (b) hereof, an exchange, the attorney for which holds a certificate of authority, which has been in business as an insurer less than three years from and after the time when it commenced business as an insurer shall maintain its assets during the balance of such three-year period in the type of assets specified in Section 1373.1, excepting such of its assets as are in excess of the sum of its liabilities and the surplus required for issuance of a certificate of authority, other than a renewal certificate of authority. Upon its failure so to do the commissioner may revoke the certificate of authority. The proceedings shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner shall have all the powers granted therein.

(b) This section shall not apply to an exchange, the attorney for which holds a certificate of authority on the effective date hereof, until January 1, 1954.

*(Added by Stats. 1951, Ch. 544.)*

**1374.** In estimating the financial condition of any exchange the commissioner shall observe the following rules:

(a) He or she shall charge as liabilities the same reserves as are required of incorporated insurers issuing nonassessable policies on a reserve basis.

(b) Surplus deposits of subscribers shall not be charged as a liability.

(c) All premium deposits and surplus deposits of subscribers due and unpaid for a period not exceeding 90 days shall be allowed as admitted assets, as in the case of incorporated insurers issuing nonassessable policies on a reserve basis.

(d) An assessment levied as provided in this chapter, and not collected shall in no event be allowed as an asset.

(e) The computation of reserves shall be based upon premium deposits without any deduction for the compensation of the attorney.

*(Amended by Stats. 1984, Ch. 564, Sec. 2.)*

**1374.1.** (a) "Surplus deposits of subscribers," as used in this chapter, means amounts, over and above any premium charges, which are contributed by subscribers and which are used for the purpose of funding the surplus of a reciprocal or interinsurance exchange. No subscriber shall have a secured or preferred claim against any of the assets of the reciprocal or interinsurance exchange arising out of surplus deposits. All assets, including the surplus deposits, shall be held by the reciprocal or interinsurance exchange and made available for payment of claims of policyholders and creditors of the reciprocal or interinsurance exchange in preference to any claim for withdrawal by a subscriber. A subscriber may, upon withdrawal from membership and cancellation of all such insurance contracts held by the subscriber with the insurer, withdraw the amount of the subscriber's surplus deposits, less such surrender charges as may be deducted pursuant to the subscriber's or insured's agreement, but only if the subscriber has given written notice to the attorney-in-fact at least 60 days in advance of the withdrawal.

(b) Withdrawal of surplus deposits of subscribers shall not be permitted if, as a result of the withdrawal, the policyholder's surplus of the exchange would be less than the capital and surplus required by Sections 700.01, 700.02, and 700.025.

(c) Withdrawal of surplus deposits of subscribers shall not be permitted after an order of conservation or liquidation of, or the appointment of a conservator or liquidator for, any such reciprocal or interinsurance exchange.

*(Added by Stats. 1984, Ch. 564, Sec. 3.)*

**1375.** Where the subscribers are grouped by industries or otherwise under any ruling or agreement which exempts the funds of one group from liability in whole or in part for the payment of losses or expenses chargeable against another group, each such independent group shall maintain the reserves and surplus required for a separate exchange and the requirements of subdivisions (f) and (g) of section 1322 relative to the number and amount of risks to be assumed must be observed as to each group.

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