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**INSURANCE CODE - INS**

**DIVISION 2. CLASSES OF INSURANCE [1880 - 12880.8]** ( *Division 2 enacted by Stats. 1935, Ch. 145.*  )

**PART 1. FIRE AND MARINE INSURANCE [1880 - 10108.1]** ( *Part 1 enacted by Stats. 1935, Ch. 145.*  )

**CHAPTER 4. General Mutual Insurers [4010 - 4097.20]** ( *Chapter 4 added by Stats. 1963, Ch. 1772.*  )

**ARTICLE 4. Loans [4040 - 4044]** ( *Article 4 added by Stats. 1963, Ch. 1772.*  )

**4040.** A mutual insurer 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 insurer'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 insurer 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.

(Amended by Stats. 2004, Ch. 4, Sec. 2. Effective January 21, 2004.)

**4042.** The issuance of any document evidencing any such loan shall require the commissioner's securities permit under Article 8 of Chapter 1, Part 2, Division 1 (commencing with Section 820).

(Added by Stats. 1963, Ch. 1772.)

**4044.** This section shall not apply to loans obtained by the insurer in ordinary course of business from banks and other financial institutions, nor to loans secured by pledge or mortgage of assets.

(Added by Stats. 1963, Ch. 1772.)