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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 7. Fraternal Fire Insurers [9080 - 9103] (*Chapter 7 enacted by Stats. 1935, Ch. 145.*)

9080. Except as provided by this chapter, an association organized and operating on or before January 1, 1947, under this chapter is not governed by the provisions of this code or other insurance laws of this State. No other association shall be formed or transact insurance under this chapter.

(Amended by Stats. 1947, Ch. 1083.)

9080.1. On and after January 1, 1954, no association shall transact insurance under this chapter unless it has theretofore received and continues to hold a certificate of exemption from the commissioner.

Before procuring such certificate such association shall file with the commissioner certified copies of the articles of incorporation, association, by-laws, rules and regulations or other organization or governing documents, together with certified copies of all evidences of insurance which it proposes to issue. It shall thereafter file with the commissioner certified copies of all amendments to such documents or evidences. The commissioner shall issue such certificate of exemption upon application by such association and a showing by it that it qualifies therefor under the provisions of this chapter.

Such certificate of exemption is subject to suspension or revocation by the commissioner if the organization fails to comply with the requirements of this chapter.

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.

Such association is subject to Sections 1 to 41, inclusive, and to Articles 4 and 14 of Chapter 1, Part 2, Division 1 of this code.

(Added by Stats. 1953, Ch. 1564.)

9080.3. Any religious organization engaged in the business of writing fire insurance solely for its members and its churches on the effective date of this section, and which has been doing so continuously in California since January 1, 1925, is subject to all applicable provisions of this chapter.

Any religious organization described in this section shall not write insurance:

(a) In excess of 10 percent of its capital and surplus as shown in its last statement on file with the commissioner, on any one risk, or in excess of 20 percent of its capital and surplus as shown in its last statement on file with the commissioner in any one city block within an incorporated city without immediately reinsuring the excess over those amounts.

(b) On business property within any incorporated city.

(Amended by Stats. 1998, Ch. 392, Sec. 1. Effective January 1, 1999.)

9081. Secret fraternal societies, having lodges, councils or granges in this State, conducting their business and securing their membership on the lodge, council or grange system exclusively, and having ritualistic work and ceremonies in their lodges, councils or granges, may form an insurer by association of the members of their order or society, binding themselves to contribute to each other's loss by fire.

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

9082. Such association shall be formed by filing a certificate in the office of the Secretary of State and a like certificate in the office of the clerk of each county in which a member has property insured in said association. Each such certificate shall state:

(a) Generally, the objects of the association.

(b) Its principal place of business.

(c) The names of its officers.

Such certificates shall be signed by the officers of the association and verified by at least three of them.

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

9083. The officers of the association shall be members of the association, having property insured therein.

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

9084. Such an association may insure the property of its members against loss or damage by fire for an amount not exceeding ten thousand dollars (\$10,000) on any one risk, subject to the following conditions as to amount:

(a) A risk in excess of three thousand five hundred dollars (\$3,500) shall not be binding as to such excess until risks to the amount of two hundred thousand dollars (\$200,000) have been written and all premiums paid thereon.

(b) A risk of more than one thousand five hundred dollars (\$1,500) shall not be binding as to such excess until risks to the amount of one hundred thousand dollars (\$100,000) have been written and all premiums paid thereon.

(c) A risk regardless of amount, shall not be binding until risks to the amount of seventy-five thousand dollars (\$75,000) have been written and all premiums paid thereon.

(Amended by Stats. 1965, Ch. 84.)

9085. A risk shall not be written by such association except for members in good standing on the books of the society forming the association. A suspension or withdrawal from membership in such society shall suspend the insurance until the member is restored to good standing in the society and association. A restoration to membership after suspension therefrom shall not extend the term of the insurance.

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

9086. All such associations shall classify the property insured by them at the time of issuing policies on such property. The classification shall be under different rates, corresponding as nearly as practicable to the greater or less risk from fire loss attached to the insured property.

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

9087. No property within the corporate limits of any city or town shall be insured except dwellings and the contents thereof, grange halls and the contents thereof, other grange property, and any buildings appurtenant thereto.

(Amended by Stats. 1959, Ch. 167.)

9087.5. Section 9087 is not applicable to insurance covering an insurable interest of a member in property which was insured by the association prior to the inclusion of the property within the corporate limits of a city.

(Added by Stats. 1947, Ch. 1083.)

9088. Such association shall provide in its by-laws for the ascertainment of loss or damage by fire, and for the payment thereof.

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

9089. Such association by and in its own name may:

(a) Sue and be sued.

(b) Loan such funds as it has on hand in such manner as its articles of association and its by-laws provide.

(c) Own sufficient real property for its business purposes, and such other real property as it becomes necessary to purchase on foreclosure of its mortgages. Real estate obtained by such foreclosure shall be sold and conveyed within five years from the time title vests in the association.

(d) Make such by-laws, not inconsistent with the laws of this State, as are necessary for its government and for the transaction of its business.

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

9090. Such association creates a mutual agreement of its members to participate in each other's loss by fire.

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

9091. Every insured shall give to the association a written instrument binding him to pay his share, proportioned to his insurance in the association, of the expense of operation and of the fire loss sustained by it during the term of his policy. Such loss consists of amounts paid or owing to insureds by reason of losses under the terms of fire policies issued by the association, together with the necessary expenses of the association in respect to such losses.

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

9092. Persons insuring property with the association shall, at the time of effecting the insurance, pay such a percentage in cash, and such other charges, as are required by the rules or by-laws of the association.

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

9093. Policies of the association may be canceled by either party thereto. In such case settlement or adjustment shall be made in accordance with the terms of the by-laws of the association.

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

9094. The secretary of each such association shall prepare an annual statement showing the financial condition of the association, including a statement of all assets and liabilities, as of the thirty-first day of December then next preceding. Such statement shall be verified under oath by the president and secretary of the association. A copy of the verified statement shall be transmitted to the commissioner on or before the first day of March of each year.

(Added by Stats. 1947, Ch. 1083.)

9095. (a) (1) An association may, if it has issued an insurance policy against fire, endorse that policy to extend the coverage thereof to include loss or damage caused by windstorm, cyclone, tornado and hail, explosion, riot, riot attending a strike, aircraft, vehicles and smoke, and to include waiver of the fallen building clause.

(2) An association may also insure against any or all of the following:

- (A) Water damage from plumbing and heating systems.
- (B) Rupture or bursting of steam or hot water heating system.
- (C) Vandalism or malicious mischief.
- (D) Glass breakage.
- (E) Ice, snow, and freezing.
- (F) Fall of trees.
- (G) Collapse.
- (H) Burglary and theft.
- (I) Mysterious disappearance.
- (J) Liability.

(b) As used in this section "explosion" does not include explosions (1) of any boiler, heater, or other fired pressure vessel, caused by pressure of contents, (2) of any unfired pressure vessel or of any piping caused by pressure of contents or vacuum, (3) of any engine, turbine, compressor, pump, or wheel, (4) of any electrical apparatus, or (5) of any other machine having moving or rotating parts. This restricted definition of "explosion" does not exclude loss or damage by fire only where fire ensues.

(c) As used in this section, the terms "boiler," "heater," and "pressure vessel," do not include hot water heaters used solely to provide hot water for delivery to faucets for domestic purposes and having a storage capacity of not more than 50 gallons.

(Amended by Stats. 2017, Ch. 190, Sec. 2. (AB 407) Effective January 1, 2018.)

9096. An association certificated under this chapter is hereby declared to be a charitable and benevolent institution, and all of its funds shall be exempt from all and every state, county, district, municipal, and school tax, other than taxes on real estate and office equipment.

(Added by Stats. 1953, Ch. 1564.)

9097. An association or organization certified under this chapter may reinsure all of its policies with, and, upon the assumption of all of its liabilities, may transfer its assets to, any mutual insurer admitted to transact the classes of insurance embraced within the policies issued by such organization or association, upon compliance with Sections 9098 through 9103, inclusive.

(Added by Stats. 1967, Ch. 1262.)

9098. The plan and agreement by which any transaction permitted by Section 9097 is to be effected shall be approved by the board of directors or other governing body of that organization or association and submitted to the commissioner accompanied by an application for approval thereof and a fee of four hundred ninety-four dollars (\$494).

(Amended by Stats. 2017, Ch. 534, Sec. 58. (AB 1699) Effective January 1, 2018.)

9099. The commissioner shall examine such plan and agreement and may require such provisions to be inserted in the agreement and such actions to be taken in connection with the transaction (including but not limited to: (1) the terms of the reinsurance, transfer and assumption, (2) the terms of the notice of the vote thereon by the members of such organization or association, and (3) the manner and form of voting thereon by such members) as he may deem necessary in order that the transaction shall be fair and equitable to the members of such organization or association.

(Added by Stats. 1967, Ch. 1262.)

9100. When any such plan and agreement shall have been approved by the commissioner with such changes, if any, required by him, the same shall be approved by a vote of not less than two-thirds of those members of such organization or association voting in person or by proxy at a meeting of the members.

(Added by Stats. 1967, Ch. 1262.)

9101. The meeting of members at which the transaction is voted upon shall be preceded by a written or printed notice of the meeting and of the purpose to vote thereat upon the plan or agreement for reinsurance, transfer and assumption, addressed to each member of record on the date of the notice and mailed at least 30 days before the date fixed for the meeting. The presence in person or by proxy of 5 percent of the members of such organization or association entitled to vote shall constitute a quorum unless a higher percentage is required by the articles of incorporation, association, bylaws, rules or regulations or other organization or governing documents. In the absence of a quorum, the members present at the meeting in person or by proxy may adjourn the meeting to a later date and no further notice need be given of the date to which the meeting is adjourned.

(Added by Stats. 1967, Ch. 1262.)

9102. If the members vote to approve the plan of reinsurance, transfer and assumption, a certified copy of all proceedings relating thereto shall be filed with the commissioner. If the commissioner finds that the proceedings have been in accordance with the law and his requirements, he shall issue his certificate approving the plan and the agreement and the transaction shall become effective at that time or upon such later date as may be specified in the agreement.

(Added by Stats. 1967, Ch. 1262.)

9103. The board of directors or other governing body of such organization or association shall file with the Secretary of State a duplicate original of the commissioner's certificate approving the plan and agreement and thereupon such organization or association shall cease to exist except for the purpose of completing the winding up of its affairs.

(Added by Stats. 1967, Ch. 1262.)