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INSURANCE CODE - INS

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

PART 4. MISCELLANEOUS CASUALTY INSURANCES [12050 - 12129] (*Part 4 enacted by Stats. 1935, Ch. 145.*)

CHAPTER 1. Surety Insurers on Reserve Basis; Capital Requirements and Permitted Insurances [12050 - 12122] (*Chapter 1 enacted by Stats. 1935, Ch. 145.*)

ARTICLE 3. Special Restrictions on Business [12090 - 12093] (*Article 3 enacted by Stats. 1935, Ch. 145.*)

12090. (a) An admitted surety insurer shall not become surety on any one undertaking, or accept reinsurance on such undertaking, when its liability thereon, in excess of the amount reinsured by it in an admitted insurer, amounts to more than ten percent of its capital and surplus as shown by its last statement on file in the office of the commissioner.

(b) In determining its liability on an undertaking for purposes of subdivision (a), an admitted insurer may reduce its liability by either or both of the following:

(1) Deposits with the surety insurer, in a manner acceptable to the commissioner, or by conveyance to it in trust for its protection, of assets that would qualify as admitted assets.

(2) A clean and irrevocable letter of credit acceptable to the commissioner.

(*Amended by Stats. 1991, Ch. 1020, Sec. 1.*)

12091. Whenever a surety insurer fails to maintain such a financial condition that assets allowed under subdivision (a) are equal in value to the aggregate of the charges prescribed under subdivision (b), the commissioner shall act as prescribed in Section 12092.

(a) In estimating its condition the commissioner shall allow as assets only such as are allowed under law in force at the time of the estimate.

(b) The charges to be aggregated shall be:

(1) Eighty percent of the paid-in capital, but in no case less than two hundred fifty thousand dollars (\$250,000).

(2) All outstanding indebtedness.

(3) Provision for reinsuring all outstanding risks, estimated as prescribed in Section 985.

(*Amended by Stats. 1971, Ch. 163.*)

12092. Whenever such an insurer fails to maintain the financial condition required by section 12091, the commissioner shall require the deficiency to be made up in sixty days. If it is not made up as required, he shall issue a certificate showing the extent of such deficiency. He shall publish the certificate once a week for three weeks, in a daily San Francisco paper. From the time of first publication until such deficiency is made up, the insurer shall not do business in this State.

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

12093. Whenever a surety insurer gives notice of cancellation of the coverage of an employee under a blanket fidelity bond, upon the request of the employee, the surety insurer, within 10 days of the request, shall furnish to the employee a statement setting forth the ground or grounds upon which the notice of cancellation is based. There shall be no liability on the part of, and no cause of action shall arise against, any surety insurer, or its licensed investigative sources, for any statements made by it concerning any employee in a written notice required to be given pursuant to this section.

If the surety insurer fails to comply with the provisions of the first paragraph of this section, the employee may apply to the commissioner for a certificate of the facts or information desired and the commissioner shall act thereon in accordance with the provisions of Article 3 (commencing with Section 12950) of Chapter 2 of Division 3.

(Added by Stats. 1961, Ch. 1931.)