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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 2. Incorporated Insurers [1140 - 1260] (*Chapter 2 enacted by Stats. 1935, Ch. 145.*)

ARTICLE 2. Restrictions on Activities [1152 - 1155] (*Article 2 enacted by Stats. 1935, Ch. 145.*)

1152. (a) Domestic incorporated stock insurers, except those governed by Sections 10530, 12373, and 12640.06, shall be governed by the provisions of this section and, if the insurer is subject to registration pursuant to Sections 1215.4 and 1215.5, as to payment or distribution of dividends to stockholders. Such insurers may make dividends only from earned surplus.

(b) No dividends shall be declared out of earned surplus derived from the mere net appreciation in the value of assets not yet realized, nor shall any dividends be declared from any part of such earned surplus derived from an exchange of assets, unless and until such earned surplus have been realized or unless the assets received are currently realizable in cash.

(c) An insurer may declare and distribute a dividend otherwise prohibited by this section if (1) following payment of the dividend the insurer's surplus as regards policyholders is (A) reasonable in relation to its outstanding liabilities and (B) adequate to its financial needs as prescribed in Section 1215.5, and (2) the commissioner has given approval for the dividend prior to payment.

(d) For purposes of this section, "earned surplus" means unassigned funds, as required to be reported on the insurer's annual statement.

(*Amended by Stats. 1993, Ch. 974, Sec. 1.8. Effective January 1, 1994.*)

1153. An insurer shall not be admitted within three years from and after the time when it commences business as an insurer, nor within three years from and after the time when it is first incorporated, unless assets equal to the sum of its liabilities and the minimum capital and surplus required for admission are maintained in cash or one or more of the following:

(a) Securities specified in Sections 1170 to 1175, inclusive.

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

(c) In the case of a life insurer, the amount of current deferred premiums receivable, after deducting therefrom the amount of the loading.

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

(e) Amount of reinsurance recoverable from admitted insurers.

(f) With the prior approval of the commissioner, any investments authorized by this code if the following conditions are met:

(1) The insurer has previously been authorized to write life or health insurance, or is seeking authority to write life or health insurance.

(2) The solvency of the insurer is guaranteed by another insurer (the "guaranteeing insurer") that meets the following criteria:

(A) The guaranteeing insurer has an ownership interest of at least 50 percent in the insurer.

(B) The guaranteeing insurer, which may be a reciprocal or interinsurance exchange, has been admitted to do business in this state for not less than 10 years.

(C) The guaranteeing insurer has maintained a surplus of admitted assets over all liabilities of at least five hundred million dollars (\$500,000,000) for not less than three years.

(3) The commissioner, in his or her discretion, determines that the proposed investment is sound in relation to the insurer's business plan and operations.

(Amended by Stats. 1998, Ch. 495, Sec. 1. Effective January 1, 1999.)

1153.5. An admitted insurer 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 types of assets specified in Section 1153, excepting such of its assets as are in excess of the sum of its liabilities and the surplus and capital requirements for admission. On its failure so to do, the commissioner may revoke its 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.

(Amended by Stats. 1951, Ch. 543.)

1154. After the period specified in Sections 1153 and 1153.5, the requirements of those sections shall no longer be applicable to any insurer specified therein and shall no longer affect or modify the application or nonapplication of any section of this code.

The provisions of Sections 1153 and 1153.5 shall not govern or limit the investments of any insurer formed by merger, consolidation, or reinsurance of the entire business of any one or more admitted insurers if any one or more of the merged, consolidated, reinsuring or reinsured insurers was, prior to such consolidation, merger, or reinsurance, admitted, or authorized to do business as an insurer in any state, for a period of three or more years.

(Amended by Stats. 1949, Ch. 339.)

1155. An insurer, within such limits as may be set by the board of directors, may contribute to community funds or to charitable, philanthropic, or benevolent instrumentalities conducive to public welfare or civic betterment.

(Added by Stats. 1951, Ch. 564.)