

40-1027. Mutual fire and tornado companies; paid-up capital and surplus requirements. (a) Any insurance company organized and existing as a mutual fire and tornado insurance company of the state of Kansas, and having a bona fide net surplus of \$450,000, and having deposited with the commissioner of insurance lawful securities for the protection of its policyholders or creditors, or both in the amount of \$150,000, shall have the authority and right to make and issue contracts of insurance or to cede or accept reinsurance on any portion of any risk for the following kinds of insurance, namely:

(1) To make insurance upon property or any valuable interest therein against loss or damage caused by fire, lightning or other electrical disturbances, earthquake, windstorm, cyclone, tornado, tempest, hail, frost, snow, ice, sleet, weather or climatic condition, including excess or deficiency of moisture, flood, rain, or drought; a rising of the waters of the ocean or its tributaries, bombardment, invasion, insurrection, riot, civil war or commotion, military or usurped power, explosion, other than the explosion of steam boilers, or the breaking of flywheels, against loss or damage from any cause to trees, crops and farm products.

(2) To make insurance against loss or damage to property and against the liability of the insured for loss or damage to the property of others caused by water entering through leaks or openings in buildings or from the breakage or leakage of sprinklers, pumps, water pipes, plumbing and all tanks, apparatus, conduits and containers designated to bring water into buildings or for its storage or utilization therein; or caused by the falling of a tank, tank platform or supports, and against loss or damage from any cause to such sprinklers, pumps, water pipes, plumbing, tanks, apparatus, conduits or containers.

(3) And against consequential loss or damage arising from any of the causes above enumerated. And generally to do and perform all other matters and things proper to promote these objects. It shall be requisite to so acting, for its board of directors to authorize the same by the affirmative vote of at least 2/3 of its membership. Any company having taken action as herein provided shall certify such action to the commissioner of insurance, together with a statement showing its financial status and a net surplus sufficient to warrant such action. Any company operating hereunder shall maintain unearned premium reserves equal to a pro rata amount of the premiums received on all unexpired risks and such unearned premium reserves shall be held and regarded as an absolute liability of the company. For the purpose of this section the unearned premium reserve for policies written on the note plan shall be determined by the amount of cash collected on said notes in excess of the percentage earned on policies written for a cash premium. Until May 1, 1989, such companies which were authorized to transact business in Kansas on January 1, 1984, shall be required to have surplus and deposit equal to that which was required by this section prior to the passage of this act.

(b) Any insurance company organized and existing as a mutual fire and tornado insurance company of the state of Kansas shall have the authority and right to make and issue contracts of insurance in addition to those specified in subsection (a) of this section, which include such amount and kind of insurance against legal liability for injury, damage or loss to the person or property of others, and for medical, hospital, and surgical expense related to such injury, as the commissioner of insurance deems to be reasonably incidental to insurance of real or personal property against fire or other perils under policies covering residential properties involving not more than two families with or without incidental office, professional, private school or studio occupancy by an insured, whether or not the premium or rate charged for certain perils so covered is specified in the policy. Any provision of K.S.A. 40-1016, and amendments thereto, to the contrary notwithstanding: (i) No insurer having a bona fide net surplus of at least \$600,000 but less than \$1,500,000 authorized as to property insurance only shall, pursuant to this subsection, retain risk as to any one subject of insurance as to hazards other than property insurance hazards in an amount exceeding 3% of its surplus to policyholders; and (ii) no insurer having a bona fide net surplus of less than \$600,000 authorized as to property insurance only shall, pursuant to this subsection, retain any risk other than property insurance hazards, and all such companies shall reinsure all such risks as to hazards other than property insurance hazards. Until May 1, 1989, companies which were authorized to transact business in Kansas on January 1, 1984, shall be required to have surplus and deposit equal to that which was required by this section prior to the passage of this act. After May 1, 1989, such companies shall comply with the surplus and deposit requirements provided by this act.

Until May 1, 1989, companies doing business in this state on January 1, 1969, shall be required to have a surplus and deposit equal to that required of such companies prior to the passage of this act. On and after May 1, 1989, companies doing business in this state on January 1, 1969, shall be required to have a surplus and deposit equal to that required of all other companies to whom this section applies immediately prior to the passage of this act.

On and after May 1, 1994, companies doing business in this state on January 1, 1969, shall comply with the surplus and deposit requirements provided by this act.

History: L. 1931, ch. 206, § 4; L. 1937, ch. 253, § 1; L. 1961, ch. 236, § 1; L. 1965, ch. 300, § 9; L. 1969, ch. 237, §5; L. 1979, ch. 142, § 1; L. 1984, ch. 169, § 4; July 1.