§ 1307. Contingent liability for borrowings. (a) Any domestic stock, mutual or co-operative insurance company or reciprocal insurer may, without pledging any of its assets, receive advances or borrow funds to:

(1) conduct its business,

(2) enable it to comply with any surplus requirement or make good any impairment or deficiency or other requirement of this chapter,

(3) defray the reasonable expenses of its organization,

(4) provide any fund to be voluntarily contributed to surplus, or

(5) organize, acquire or invest in any subsidiaries authorized by this chapter.

(b) Such borrowing may only be made upon an agreement that such moneys and such interest thereon as may be agreed upon, at a rate not exceeding the maximum rate provided in section 5-501 of the general obligations law, in effect at the time the agreement is executed, shall be repaid only out of free and divisible surplus of such insurer with the approval of the superintendent whenever, in his judgment, the financial condition of such insurer warrants. In the event of insolvency of a mutual or co-operative insurance company unearned premiums shall be deemed to be part of its free and divisible surplus.

(c) Any sum so advanced or borrowed shall not be part of the legal liabilities of such insurer and shall not be a basis of any set-off but until repaid all statements published by such insurer or filed with the superintendent shall show, as a footnote, the amount then remaining unpaid.

(d) No such insurance company or reciprocal insurer shall directly or indirectly make any agreement for any advance or borrowing pursuant to this section unless such agreement is in writing and shall have been approved by the superintendent as not unfair, misleading or contrary to law.