§ 4109. Mutual companies; special contingent surplus. (a) A domestic mutual property/casualty insurance company licensed to write any of the kinds of insurance defined respectively in the following paragraphs of subsection (a) of section one thousand one hundred thirteen of this chapter: accident and health (item (i) of (3)), non-cancellable disability (item (ii) of (3)), burglary and theft (7), glass (8), boiler and machinery (9), elevator (10), animal (11), personal injury liability (13), property damage liability (14), workers' compensation and employers' liability (15), fidelity and surety (16) or credit (17), shall establish on its general ledger a special contingent surplus and shall thereafter maintain the same unimpaired so long as it is licensed to write one or more of the foregoing kinds of insurance. An impairment exists in the surplus of any such company at any time when the aggregate value of its admitted assets is less than the amount of all of its liabilities and the special contingent surplus which it is required to maintain at such time.

(b) During each full calendar year except the first two full calendar years next following the calendar year in which such company was licensed to write any kind of insurance specified in subsection (a) hereof, the amount of such contingent surplus shall exceed the required amount thereof at last year-end, by an amount at least equal to one and one-half percent of the net premium income received for the kinds of insurance referred to in subsection (a) hereof during such whole calendar year, until the amount of such contingent surplus shall be at least equal to the amount of surplus to policyholders required under section four thousand one hundred three of this article to be maintained by a similar domestic stock property/casualty insurance company licensed to do any one or more of the kinds of insurance specified in subsection (a) hereof. Such special contingent surplus, by whatever name called, shall be inclusive of the minimum surplus required by the provisions of this chapter and shall be exclusive of any divisible surplus available for the payment of dividends.

(c) No domestic mutual property/casualty insurance company shall declare or pay any dividend to policyholders if, after the payment of such dividend, its special contingent surplus as herein required will be impaired. The declaration and payment of dividends by any such company shall be subject to the provisions of section one thousand two hundred

eleven of this chapter.

(d) Any domestic mutual property/casualty insurance company shall be authorized in any year to further increase its special contingent surplus by an amount in excess of the annual accumulation required by this section, and any such excess shall be credited upon the amount which otherwise it would have been required to accumulate by the provisions of this section in any subsequent year or years.

(e) The superintendent may refuse to issue a license or renewal license to do an insurance business in this state to any foreign or alien mutual property/casualty insurance company which does not comply in substance with this section applicable to a similar domestic mutual property/casualty insurance company licensed to write the same kind or kinds of insurance.