§ 4110. Domestic mutual companies; expense limits. (a) No domestic mutual property/casualty insurance company licensed to write a kind of insurance specified in paragraph seven, eight, nine, ten, eleven, thirteen, fourteen, fifteen, sixteen or seventeen of subsection (a) of section one thousand one hundred thirteen of this chapter shall expend in any one calendar year for management expenses a greater amount than thirty percent of the sum of its net premium income and seventy-five percent of its investment income for such year; provided that any insurer whose principal line of business is medical malpractice liability insurance or any insurer who is the subject of a proceeding pursuant to article seventy-four of this chapter shall not expend in any one calendar year for management expenses, a greater amount than thirty percent of its net premium income for such year. Management expenses shall be held to include all expenses of the company except expenses incurred in the investigation, adjustment and settlement of claims, taxes, fees and expenses of examination, and taxes, repairs and expenses on real estate. In applying the provisions of this section the net premium income of, and expenses of, boiler and machinery insurance or elevator insurance shall not be included. In the event expenses incurred in making a new system upgrade result in this subsection's management expenses limit being exceeded, then the insurer shall inform the superintendent sixty days in advance of the expense limit being exceeded. Subject to approval by the superintendent, the limit shall be temporarily raised to the amount necessary to encompass the aforestated new system upgrade, provided that in no event shall the limit be raised more than five percentage points and shall not be in effect for more than three years, and provided further that an insurer may submit to the superintendent, for the superintendent's prior approval, a written request to temporarily raise the limit for up to an additional three years, for a total of no more than six years. An insurer shall submit such written request to the superintendent at least sixty days but not more than one hundred twenty days before the expiration of the initial period during which the limit was raised. The insurer shall not increase premiums solely as a result of the management expenses cap limit being exceeded. For purposes of this subsection, a new system upgrade is defined as the acquisition of electronic data processing apparatus and related equipment constituting a data processing, record keeping or

accounting system and operating and non-operating software.

(b) Subsection (a) hereof shall not apply to a mutual company organized before the effective date of this chapter as a domestic mutual fire or marine or marine protection and indemnity company.