§ 4118. Limitation of risks; fidelity and surety; fire; hospital mutuals. (a) (1) In applying the limitation of section one thousand one hundred fifteen of this chapter to fidelity and surety risks the net amount of exposure on any one fidelity or surety risk shall, except as provided in paragraph four hereof, be deemed within the limit of ten percent if the company is protected in excess of that amount by:

(A) reinsurance in a company authorized to write such business in this state or reinsurance in an accredited reinsurer, as defined in subsection (a) of section one hundred seven of this chapter, which is in such form as to enable the obligee or beneficiary to maintain an action thereon against the ceding insurer jointly with the assuming insurer or, where the commencement or prosecution of actions against the ceding insurer has been enjoined by any court of competent jurisdiction or any justice or judge thereof, against the assuming insurer alone, and to have recovery against the assuming insurer for its share of the liability thereunder and in discharge thereof; or

(B) the co-suretyship of any other company authorized to do such business in this state; or

(C) a deposit of property with it in pledge or conveyance of property to it in trust for its protection; or

(D) a conveyance or mortgage of property for its protection; or

(E) in case a suretyship or guaranty obligation was made on behalf or on account of a fiduciary holding property in a trust capacity, by such a deposit or other disposition of a portion of the property so held in trust that no future sale, mortgage, pledge or other disposition can be made thereof except with the consent of the insurance company or by decree or order of a court of competent jurisdiction.

(2) Notwithstanding the provisions of paragraph one hereof, a company may execute bonds of the kind commonly known as transportation or warehousing bonds for United States internal revenue taxes in a net amount not exceeding twenty percent of its surplus to policyholders, determined as provided in paragraph one hereof.

(3) In determining the net amount of exposure on any one risk, the following rules shall be applicable to the kinds of obligations hereinafter described:

(A) When the penalty of a suretyship obligation exceeds the amount of a judgment prescribed therein as appealed from and thereby secured, or

exceeds the amount of the subject matter in controversy or of the estate in the hands of the fiduciary for the performance of whose duties it is conditioned, the bond may be executed by such company if the actual amount of the judgment or the subject matter in controversy or estate not subject to supervision or control of the surety, is not in excess of a limitation of ten percent.

(B) When the penalty of a suretyship obligation executed for the performance of a contract exceeds the contract price, the latter amount shall be taken as the basis for estimating the limit of risk within the meaning of this paragraph.

(4) In addition to any other limitation contained in this chapter, no authorized company shall at any one time be exposed to risks on suretyship obligations guaranteeing the deposits of any single financial institution in an aggregate net amount in excess of ten percent of the surplus to policyholders of such company, determined as provided in paragraph one hereof, unless it shall be protected in excess of that amount by security in accordance with the provisions of subparagraphs (A), (B), (C) and (D) of paragraph one hereof.

(b) No insurer authorized to write fire insurance in this state shall expose itself to any loss on any one fire risk, whether located in this state or elsewhere, in an amount exceeding ten percent of its surplus to policyholders, except that in the case of risks adequately protected by automatic sprinklers or risks principally of non-combustible construction and occupancy such insurer may expose itself to any loss on any one risk in an amount not exceeding twenty-five percent of the sum of its unearned premium reserve and its surplus to policyholders. Any risk or portion of any risk reinsured in an assuming insurer authorized to write such business in this state or in an accredited reinsurer, as defined in subsection (a) of section one hundred seven of this chapter, shall be deducted in determining the limitation of risk prescribed in this subsection.

(c) A mutual property/casualty insurance company subject to paragraph two of subsection (a) of section four thousand one hundred seven of this article may be permitted to write coverage on any one risk in excess of the limitation provided by section one thousand one hundred fifteen of this chapter, based upon criteria approved by the superintendent.