**§ 4219. Limitation on accumulation of surplus of life insurance companies.** (a) (1) Any domestic mutual life insurance company may maintain a surplus, above all of its reserves and liabilities required or specifically permitted by this chapter, not exceeding the greatest of (A) eight hundred fifty thousand dollars, or (B) ten percent of its policy reserves and policy liabilities, or (C) ten percent of its policy reserves and policy liabilities plus (i) the product of three and its authorized control level RBC as determined in accordance with section one thousand three hundred twenty-two of this chapter minus (ii) the asset valuation reserve as reported in its annual statement, or (D) the minimum amount of capital and surplus required by law of another state in which the company is authorized to do business.

(2) Any domestic stock life insurance company issuing participating policies only or both participating and non-participating policies or contracts in accordance with subsection (f) of section four thousand two hundred thirty-one of this article, may maintain a participating policyholders' surplus, above all of its reserves and liabilities arising out of participating policies, required or specifically permitted by the provisions of this chapter, not exceeding the greatest of (A) two hundred fifty thousand dollars, or (B) ten percent of such policy reserves and such policy liabilities, or (C) ten percent of such policy reserves and policy liabilities plus the amount derived by prorating, based upon the ratio of participating assets to admitted assets, (i) the product of three and its authorized control level RBC as determined in accordance with section one thousand three hundred twenty-two of this chapter minus (ii) the asset valuation reserve as reported in its annual statement.

(3) In this section, "policy reserves and policy liabilities" includes reserves and liabilities on outstanding life insurance policies, accident and health insurance policies and annuity contracts, contracts supplemental thereto or in connection therewith or provisions included therein insuring against disability or against death by accident and including liabilities required under optional modes of settlement and for dividends left on deposit, after deducting the net value of its risks reinsured by other solvent assuming insurers. Policy reserves and liabilities shall also include the reserves and liabilities of the domestic life insurance company and the policy reserves and liabilities

of any and all wholly-owned subsidiary life insurance companies of the domestic life insurance company, to the extent that the surpluses of such subsidiary life insurance companies are included in the surplus of the domestic life insurance company for purposes of determining the limit pursuant to this section.

(4) In the case of a mutual life insurance company that is reorganized into a stock life insurance company under section seven thousand three hundred twelve of this chapter, the limitation contained in paragraph one of this subsection shall not affect that part of the existing surplus of such reorganized company that is allocated to participating policies and contracts of the mutual life insurance company which is in excess of such limitation on the effective date of the reorganization, provided such excess, in addition to any further accretions occurring in the normal course of business, shall be equitably distributed to these participating policyholders and contractholders over a period not to exceed ten years.

(b) The superintendent may, for good cause shown, by order, permit any such company to maintain a surplus in excess of the maximum prescribed by subsection (a) hereof, for a specified period, not exceeding one year under any one order. The superintendent shall state in such order his reasons therefor and shall cause a statement of such order and such reasons to be published in his next annual report to the legislature.

(c) This section shall not apply to any stock life insurance company doing exclusively a non-participating business.