§3404. Fire insurance contracts; standard policy provisions; permissible variations

(a) The printed form of a policy of fire insurance, as set forth in subsection (e) hereof, shall be known and designated as the " standard fire insurance policy of the state of New York ."

(b)(1) No policy or contract of fire insurance shall be made, issued or delivered by any insurer or by any agent or representative thereof, on any property in this state, unless it shall conform as to all provisions, stipulations, agreements and conditions with such form of policy, except policies subject to the provisions of section three thousand one hundred two of this chapter which shall be required to comply with the provisions of paragraph one of subsection (f) of this section.

(2) There shall be printed or typewritten at the head of such policy the name and home office address of the insurer or insurers issuing the policy and a statement whether such insurer or insurers are stock or mutual corporations or are reciprocal insurers or Lloyds underwriters. In lieu of such statement a corporation organized under a special act of the legislature of any state may so indicate upon its policy. The head of the policy may also have such devices as the insurer or insurers issuing it desire.

(3) The standard fire insurance policy need not be used for effecting reinsurance between insurers.

(4) If the policy is issued by a mutual, cooperative or reciprocal insurer having special regulations with respect to the payment by the policyholder of assessments, such regulations shall be printed upon the policy, and any such insurer may print upon the policy such regulations as may be appropriate to or required by its form of organization.

(c) Two or more insurers authorized to do the business of fire insurance in this state may, with the approval of the superintendent, issue a combination standard form of fire insurance policy which shall contain the following provisions:

(1) A provision substantially to the effect that the insurers executing such policy shall be severally liable for the full amount of any loss or damage, according to the terms of the policy, or for specified percentages or amounts thereof, aggregating the full amount of such insurance under such policy.

(2) A provision substantially to the effect that service of process, or of any notice or proof of loss required by such policy, upon any of the insurers executing such policy, shall be deemed to be service upon all such insurers.

(d)(1) Appropriate forms of a supplemental contract or contracts or extended coverage endorsements insuring against one or more of the perils which the insurer is empowered to insure, in addition to the perils covered by such standard fire insurance policy, may be approved by the superintendent, who may authorize their use in connection with a standard fire insurance policy.

(2) The first page of the policy, in a form approved by the superintendent, may be rearranged to provide space for the listing of amounts of insurance, rates and premiums for the basic coverages insured under the standard form of policy and for additional coverages or perils insured under attached endorsements, and such other data as may be conveniently included for duplication on daily reports for office records.

(e) The form of the standard fire insurance policy of the state of New York (with permission to substitute for the word "company" a more accurate descriptive term for the type of insurer) shall be as follows:

FIRST PAGE OF STANDARD FIRE POLICY

No. _____

[Space for insertion of name of company or companies issuing the policy and other matter permitted to be stated at the head of the policy.]

[Space for listing amounts of insurance, rates and premiums for the basic coverages insured under the standard form of policy and for additional coverages or perils insured under endorsements attached.]

In Consideration of the Provisions and Stipulations herein or added hereto

and of _____ Dollars Premium

this Company, for term of _____ } **from the _____ day of _____, 19 ___ to the _____ day of _____, 19 ___** { **at noon, Standard Time, at location of property involved,**

does insure _____

and legal representatives, TO THE LESSER AMOUNT OF EITHER:

1) THE ACTUAL CASH VALUE OF THE PROPERTY AT THE TIME OF THE LOSS, OR

2) THE AMOUNT WHICH IT WOULD COST TO REPAIR OR REPLACE THE PROPERTY WITH MATERIAL OF LIKE KIND AND QUALITY WITHIN A REASONABLE TIME AFTER SUCH LOSS, WITHOUT ALLOWANCE FOR ANY INCREASED COST OF REPAIR OR RECONSTRUCTION BY REASON OF ANY ORDINANCE OR LAW REGULATING CONSTRUCTION OR REPAIR, AND WITHOUT COMPENSATION FOR LOSS RESULTING FROM INTERRUPTION OF BUSINESS OR MANUFACTURE, OR

3) TO AN AMOUNT NOT EXCEEDING _____ DOLLARS, BUT IN ANY EVENT FOR NO MORE THAN THE INTEREST OF THE INSURED, AGAINST ALL DIRECT LOSS BY FIRE, LIGHTNING AND BY REMOVAL FROM PREMISES ENDANGERED BY THE PERILS INSURED AGAINST IN THIS POLICY, EXCEPT AS HEREINAFTER PROVIDED, to the property described hereinafter while located or contained as described in this policy, or pro rata for five days at each proper place to which any of the property shall necessarily be removed for preservation from the perils insured against in this policy, but not elsewhere.

Assignment of this policy shall not be valid except with the written consent of this Company.

This policy is made and accepted subject to the foregoing provisions and stipulations and those hereinafter stated, which are hereby made a part of this policy, together with

policy shall not be valid unless countersigned by the duly authorized Agent of this Company at _____

_____

Secretary, President.

Countersigned this _____ day of _____, 19 ___ _____

AGENT.

SECOND PAGE OF STANDARD FIRE POLICY

Concealment, fraud. This entire policy shall be void if, whether before or after a loss, the insured has wilfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the insured therein, or in case of any fraud or false swearing by the insured relating thereto.

Uninsurable and excepted property. This policy shall not cover accounts, bills, currency, deeds, evidences of debt, money or securities; nor, unless specifically named hereon in writing, bullion or manuscripts.

Perils not included. This Company shall not be liable for loss by fire or other perils insured against in this policy caused, directly or indirectly, by: (a) enemy attach by armed forces, including action taken by military, naval or air forces in resisting an actual or an immediately impending enemy attack; (b) invasion; (c) insurrection; (d) rebellion; (e) revolution; (f) civil war; (g) usurped power; (h) order of any civil authority except acts of destruction at the time of and for the purpose of preventing the spread of fire, provided that such fire did not originate from any of the perils excluded by this policy; (*i*) neglect of the insured to use all reasonable means to save and preserve the property at and after a loss, or when the property is endangered by fire in neighboring premises; (j) nor shall this Company be liable for loss by theft.

Other insurance. Other insurance may be prohibited or the amount of insurance may be limited by endorsement attached hereto.

Conditions suspending or restricting insurance. Unless otherwise provided in writing added hereto this Company shall not be liable for loss occurring

(a) while the hazard is increased by any means within the control or knowledge of the insured; or

(b) while a described building, whether intended for occupancy by owner or tenant, is vacant or unoccupied beyond a period of sixty consecutive days; or

(c) as a result of explosion or riot, unless fire ensue, and in that event for loss by fire only.

Other perils or subjects. Any other peril to be insured against or subject of insurance to be covered in this policy

vision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added hereto, but no provision may be waived except such as by the terms of this policy is subject to change.

Waiver provisions. No permission affecting this insurance shall exist, or waiver of any provision be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirement or proceeding on the part of this Company relating to appraisal or to any examination provided for herein.

Cancellation of policy. This policy shall be cancelled at any time at the request of the insured, in which case this Company shall, upon demand and surrender of this policy, refund the excess of paid premium above the customary short rates for the expired time. This policy may be cancelled at any time by this Company by giving to the insured a five days' written notice of cancellation with or without tender of the excess of paid premium above the pro rata premium for the expired time, which excess, if not tendered, shall be refunded on demand. Notice of cancellation shall state that said excess premium (if not tendered) will be refunded on demand.

Mortgagee interest and obligations. If loss hereunder is made payable, in whole or in part, to a designated mortgagee not named herein as the insured, such interest in this policy may be cancelled by giving to such mortgagee a ten days' written notice of cancellation.

If the insured fails to render proof of loss such mortgagee, upon notice, shall render proof of loss in the form herein specified within sixty (60) days thereafter and shall be subject to the provisions hereof relating to appraisal and time of payment and of bringing suit. If this Company shall claim that no liability existed as to the mortgagor or owner, it shall, to the extent of payment of loss to the mortgagee, be subrogated to all the mortgagee's rights of recovery, but without impairing mortgagee's right to sue; or it may pay off the mortgage debt and require an assignment thereof and of the mortgage. Other provisions relating to the interests and obligations of such mortgagee may

Requirements in case loss occurs. The insured shall give immediate written notice to this Company of any loss, protect the property from further damage, forthwith separate the damaged and undamaged personal property, put it in the best possible order, furnish a complete inventory of the destroyed, damaged and undamaged property, showing in detail quantities, costs, actual cash value and amount of loss claimed; and within sixty days after the loss, unless such time is extended in writing by this Company, the insured shall render to this Company a proof of loss, signed and sworn to by the insured, stating the knowledge and belief of the insured as to the following: the time and origin of the loss, the interest of the insured and of all others in the property, the actual cash value of each item thereof and the amount of loss thereto, all encumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes in the title, use, occupation, location, possession or exposures of said property since the issuing of this policy, by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of loss and whether or not it then stood on leased ground, and shall furnish a copy of all the descriptions and schedules in all policies and, if required, verified plans and specifications of any building, fixtures or machinery destroyed or damaged. The insured, as often as may be reasonably required, shall exhibit to any person designated by this Company all that remains of any property herein described, and submit to examinations under oath by any person named by this Company, and subscribe the same; and, as often as may be reasonably required, shall produce for examination all books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by this Company or its representative, and shall permit extracts and copies thereof to be made.

Appraisal. In case the insured and this Company shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within twenty days of such demand. The appraisers shall first select a competent and disinterested umpire; and failing for fifteen days to agree upon

submit their differences, only, to the umpire. An award in writ-
writing, so itemized, of any two when filed with this Company shall
determine the amount of actual cash value and loss. Each
appraiser shall be paid by the party selecting him and the
expenses of appraisal and umpire shall be paid by the parties
equally.

Company's options. It shall be optional with this Company to take all, or any part, of the property at the agreed or appraised value, and also to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within thirty days after the receipt of the proof of loss herein required.

Abandonment. There can be no abandonment to this Company of any property.

When loss payable. The amount of loss for which this Company may be liable shall be payable sixty days after proof of loss, as herein provided, is received by this Company and ascertainment of the loss is made either by agreement between the insured and this Company expressed in writing or by the filing with this Company of an award as herein provided.

Suit. No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within twenty-four months next after inception of the loss.

Subrogation. This Company may require from the insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this Company.

ATTACH FORM BELOW THIS LINE

BACK OF STANDARD FIRE POLICY

(OPTIONAL)

Standard Fire Insurance Policy of the State of

Expires _____

Property _____

Assured _____

No. _____

(COMPANY)

(f)(1) Subject to the approval of the superintendent, a policy which insures solely against the peril of fire or which insures against the peril of fire in combination with other kinds of insurance either for a divisible or indivisible premium need not comply with the provisions of subsection (e) of this section, provided:

(A) the policy contains, with respect to the peril of fire, terms and provisions no less favorable to the insured than those contained in the standard fire policy;

(B) the provisions in relation to mortgagee interests and obligations in such standard fire policy are incorporated without substantive change; and

(C) the policy or contract is complete as to all of its terms without reference to the standard form fire insurance policy or any other policy.

(2) Policies of automobile or aircraft physical damage insurance or policies of inland marine insurance may be issued as heretofore without reference to the limitations contained in paragraph one of this subsection.

(g) Notwithstanding any other provision of law to the contrary, the provisions of the appraisal clause set out on the second page of the standard fire policy and the provisions of section three thousand four hundred eight of this article, including determinations as to the amount of loss or damage rendered thereunder, shall be binding on all parties to the contract of insurance evidenced by the policy and may be enforced by either the insurer or the insured by application made pursuant to subsection (c) of section three thousand four hundred eight of this article.

(h) As used in this section, " binder " means a written document (1) which includes the name and address of the insured and any additional named insureds, mortgagees, or lienholders; a description of the property insured; a description of the nature and amount of coverage which shall be deemed to include the terms of the standard fire insurance policy except as conspicuously noted on the binder; the identity of the insurer and of the authorized representative executing the binder; the effective date of coverage; the binder number or the policy number where applicable to a policy extension, and (2) which temporarily obligates the insurer to provide that insurance coverage pending issuance of the insurance policy. The cancellation of such a binder shall be governed at the minimum by the provisions of the standard fire insurance policy and the provisions of this chapter applicable thereto. No exempt organization, as defined in section five hundred ninety of the banking law, or licensed mortgage banker which originates mortgage loans shall, at the time of title closing for a loan secured by a one to four family residential real property, refuse to accept a binder, issued by an insurer, or a duly authorized representative of an insurer, licensed to do business in this state, as evidence that hazard insurance has been procured for the mortgaged premises. Nothing herein is intended to prohibit the mortgage banker or exempt organization from requiring the borrower to also furnish a receipt indicating that the annual or installment premium on such insurance policy has been paid.