

(c) Unrealized contingent liability of members does not constitute an asset of the insurer in any determination of its financial condition.

#### **260. Levy of Contingent Liability.**

(a) If at any time the assets of a domestic mutual insurer are less than its liabilities and the minimum amount of surplus required to be maintained by it by this article for authority to transact the kinds of insurance being transacted, and the deficiency is not cured from other sources, its directors shall levy an assessment only upon its members who held policies providing for contingent liability at any time within the thirty-six (36) months preceding the date notice of such assessment was mailed to them, and such members shall be liable to the insurer for the amount so assessed.

(b) The assessment shall be for such an amount as is required to cure such deficiency and to provide a reasonable amount of working funds above such minimum amount of surplus, but such working funds so provided shall not exceed five percent (5%) of the insurer's liabilities as of the date as of which the amount of such deficiency was determined.

(c) In levying an assessment upon a policy providing for contingent liability, the assessment shall be computed on the basis of the premiums earned on such policy during the period to which the assessment relates.

(d) No member shall have an offset against any assessment for which he is liable, on account of any claim for unearned premium or loss payable.

#### **261. Enforcement of Contingent Liability.**

(a) Any assessment made by an insurer under section 260 of this subtitle shall be deemed to be prima facie correct. The amount of such assessment to be paid by each member as determined by the insurer shall be deemed to be likewise prima facie correct.

(b) The insurer shall notify each member of the amount of the assessment to be paid by written notice mailed to the address of the member last of record with the insurer. Failure of the member to receive the notice so mailed, within the time specified therein for the payment of the assessment or at all, shall be no defense in any action to collect the assessment.

(c) If a member fails to pay the assessment within the period specified in the notice, which period shall not be less than twenty (20) days after mailing, the insurer may institute suit to collect the same.

#### **262. Nonassessable Policies, Mutual Insurers.**

(a) While possessing surplus funds in amount not less than the paid-in capital stock and surplus required of a domestic stock insurer transacting like kinds of insurance, a domestic mutual insurer may, upon receipt of the Commissioner's order so authorizing, extinguish the contingent liability of its members as to all its policies in force and may omit provisions imposing contingent liability in all its policies currently issued.

(b) A foreign or alien mutual insurer may issue nonassessable policies to its members in this State pursuant to its articles of incor-