

EXPENSES INCURRED BY THE ASSOCIATION FOR WHICH THE ASSOCIATION HAS ASSESSED THE MEMBER INSURERS.

(2) TO RECOUP LOSS AND EXPENSE ASSESSMENTS, THE PROGRAM OF OPERATION SHALL PROVIDE FOR:

(I) THE CALCULATION OF THE SURCHARGE OR RATING FACTORS THAT ARE TO BE ADDED TO DIRECT WRITTEN PREMIUMS FOR ALL CASUALTY INSURANCE, INCLUDING PREMIUMS WRITTEN BY THE ASSOCIATION, EXCEPT:

1. PROPERTY AND HOMEOWNER INSURANCE;
2. MEDICAL MALPRACTICE INSURANCE; AND
3. MOTOR VEHICLE INSURANCE; AND
4. WORKERS' COMPENSATION INSURANCE; AND

(II) THE ADJUSTMENT EACH YEAR OF THE SURCHARGE OR RATING FACTORS TO REFLECT ANY PREVIOUS OVER OR UNDER RECOUPMENT OF ASSESSMENT.

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(A) THE ASSOCIATION SHALL BE ACTIVATED ISSUE POLICIES OF INSURANCE ONLY IF, AFTER A HEARING, THE COMMISSIONER FINDS THAT COMMERCIAL CASUALTY INSURANCE IS UNAVAILABLE FOR A PARTICULAR SUBPOOL AND THAT:

(1) A SUBSTANTIAL NUMBER OF COMMERCIAL ENTITIES WITHIN ANY SUBPOOL ARE OR WITHIN 6 MONTHS WILL BE UNABLE TO OBTAIN COMMERCIAL CASUALTY INSURANCE FROM AN INSURER AUTHORIZED TO DO BUSINESS IN THIS STATE INCLUDING OR AN APPROVED SURPLUS LINES-INSURERS LINE INSURER;

(2) THE LACK OF COMMERCIAL CASUALTY LIABILITY INSURANCE SEVERELY HAMPERS THE OPERATION OF THE COMMERCIAL ENTITIES IN THIS SUBPOOL;

(3) THE LACK OF COMMERCIAL CASUALTY INSURANCE WILL CAUSE A SUBSTANTIAL NUMBER OF COMMERCIAL ENTITIES IN THE SUBPOOL TO CEASE OPERATIONS IN THIS STATE; AND

(4) THE CESSATION OF OPERATION OF A SUBSTANTIAL NUMBER OF COMMERCIAL ENTITIES IN A SUBPOOL WILL BE DETRIMENTAL TO THE GENERAL WELFARE OF THE CITIZENS OF THIS STATE.

~~(B) -- WITHIN 15 DAYS AFTER A FINDING BY THE COMMISSIONER UNDER SUBSECTION (A) OF THIS SECTION THAT COMMERCIAL CASUALTY INSURANCE IS UNAVAILABLE IN A CERTAIN SUBPOOL, THE COMMISSIONER SHALL ORDER ALL INSURERS THAT ARE LICENSED TO WRITE GENERAL CASUALTY INSURANCE IN THIS STATE TO CREATE A JOINT INSURANCE UNDERWRITING ASSOCIATION FOR COMMERCIAL CASUALTY INSURANCE.~~