

THE AFFAIRS OF THE ASSOCIATION WOULD BE ADMINISTERED BY A LICENSED INSURER OR BY THE JOINT INSURANCE ASSOCIATION.

(2) ANY CONTRACT MADE UNDER THIS SUBSECTION MAY NOT EXCEED 3 YEARS IN DURATION.

(3) NOTWITHSTANDING THE PROVISIONS OF ANY CONTRACT MADE UNDER THIS SUBSECTION, THE CONTRACTUAL ADMINISTRATION OF THE AFFAIRS OF THE ASSOCIATION SHALL BE SUBJECT TO CONTINUING DIRECTION BY THE BOARD OF GOVERNORS AS SET OUT IN THIS SUBTITLE AND IN THE PROGRAM OF OPERATION.

(K) (1) THE PROGRAM OF OPERATION SHALL PROVIDE FOR A METHOD OF RECOUPMENT WHEREBY MEMBER INSURERS MAY RECOVER LOSSES AND 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;