

(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;
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 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 or an approved surplus line insurer;

(2) The lack of commercial casualty 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) In any order issued under subsection (a) of this section, the Commissioner may require the Association to activate any of the following subpools:

(1) Day care centers regulated under Title 14 of the Health - General Article;