

(3) (I) PRIOR TO MARCH 1 OF EACH YEAR, THE BOARD SHALL DETERMINE AND FILE WITH THE COMMISSIONER AN ESTIMATE OF THE ASSESSMENTS NEEDED TO FUND THE LOSSES INCURRED BY THE POOL IN THE PREVIOUS CALENDAR YEAR.

(II) 1. IF THE BOARD DETERMINES THAT THE ASSESSMENTS NEEDED TO FUND THE LOSSES INCURRED BY THE PROGRAM IN THE PREVIOUS CALENDAR YEAR WILL EXCEED THE AMOUNT SPECIFIED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, THE BOARD SHALL EVALUATE THE OPERATION OF THE POOL AND REPORT ITS FINDINGS, INCLUDING ANY RECOMMENDATIONS FOR CHANGES TO THE PLAN OF OPERATION, TO THE COMMISSIONER WITHIN 90 DAYS FOLLOWING THE END OF THE CALENDAR YEAR IN WHICH THE LOSSES WERE INCURRED.

2. THE EVALUATION UNDER SUBPARAGRAPH (II)1 OF THIS PARAGRAPH SHALL INCLUDE: AN ESTIMATE OF FUTURE ASSESSMENTS, THE ADMINISTRATIVE COSTS OF THE POOL, THE APPROPRIATENESS OF THE PREMIUMS CHARGED AND THE LEVEL OF INSURER RETENTION UNDER THE PROGRAM, AND THE COSTS OF COVERAGE FOR SMALL EMPLOYERS.

3. IF THE BOARD FAILS TO FILE THE REPORT WITH THE COMMISSIONER WITHIN 90 DAYS FOLLOWING THE END OF THE APPLICABLE CALENDAR YEAR, THE COMMISSIONER MAY EVALUATE THE OPERATIONS OF THE POOL AND IMPLEMENT AMENDMENTS TO THE PLAN OF OPERATION THAT THE COMMISSIONER DEEMS NECESSARY TO REDUCE FUTURE LOSSES AND ASSESSMENTS.

(III) FOR ANY CALENDAR YEAR, THE AMOUNT SPECIFIED IN THIS SUBPARAGRAPH MAY NOT EXCEED 5% OF TOTAL PREMIUMS EARNED THE PREVIOUS YEAR FROM HEALTH BENEFIT PLANS DELIVERED OR ISSUED FOR DELIVERY TO SMALL EMPLOYERS IN THIS STATE BY REINSURING CARRIERS.

(4) IF ASSESSMENTS EXCEED NET LOSSES OF THE POOL THE EXCESS SHALL BE HELD IN AN INTEREST-BEARING ACCOUNT AND USED BY THE BOARD TO OFFSET FUTURE LOSSES OR TO REDUCE POOL PREMIUMS. AS USED IN THIS PARAGRAPH, "FUTURE LOSSES" INCLUDES RESERVES FOR INCURRED BUT NOT REPORTED CLAIMS.

(5) EACH REINSURING CARRIER'S PROPORTION OF THE ASSESSMENT SHALL BE DETERMINED ANNUALLY BY THE BOARD BASED ON ANNUAL STATEMENTS AND OTHER REPORTS DEEMED NECESSARY BY THE BOARD AND FILED BY THE REINSURING CARRIERS WITH THE BOARD.

(6) THE PLAN OF OPERATION SHALL PROVIDE FOR THE IMPOSITION OF AN INTEREST PENALTY FOR LATE PAYMENT OF ASSESSMENTS.

(7) (I) A REINSURING CARRIER MAY SEEK FROM THE COMMISSIONER A DEFERMENT FROM ALL OR PART OF AN ASSESSMENT IMPOSED BY THE BOARD. THE REQUEST FOR DEFERMENT SHALL BE MADE, IN WRITING, TO THE COMMISSIONER WITHIN 15 DAYS OF THE MEMBER'S RECEIPT OF THE ASSESSMENT NOTICE.