WEST VIRGINIA CODE: §33-20E-16

§33-20E-16. Deficit; recoupment; assessments; reimbursement of members.

(a) A deficit sustained by the association in any one calendar year may be recouped, pursuant to the plan of operation then in effect, by one or more of the following procedures:

(1) A contribution from a reserve fund, if any, until the same is exhausted;

(2) An assessment upon the member insurers;

(3) A prospective rate increase.

(b) In the event the board opts to assess the member insurers, each member shall be responsible for the proportion of the deficit its net direct written premiums for the preceding year bear to the aggregate net direct premiums written by all members in the preceding calendar year. Net direct written premiums subject to the provisions of article twenty-a of this chapter shall not be considered in determining a member insurer's proportional share of the deficit. A member insurer may not be assessed in any year an amount greater than two percent of its net direct written premiums for the preceding calendar year.

(c) The assessment of a member insurer may be ordered deferred, in whole or in part, upon application by the insurer if the commissioner determines that payment of the assessment may render the insurer insolvent or in danger of insolvency or otherwise seriously impair the financial stability of the member insurer.

(d) After the deficit which necessitated the assessment has been recouped, each member insurer shall be entitled to reimbursement of any assessment through a credit against the premium taxes imposed by sections fourteen and fourteen-a, article three of this chapter, in equal amounts per year for three successive years following the assessment. At the option of the member insurer, the premium tax credit may be taken over an additional number of years. The tax credit established under this subsection shall be applicable only to General Revenue Funds.

(e) A member insurer may not impose a policy surcharge on any policyholder of the member insurer for any assessment paid by the member insurer pursuant to subsection (b) of this section or otherwise refer to the assessment paid by the member insurer in any billing statement or notice provided to any policyholder of the member insurer. Nothing in this section shall prohibit a member insurer from treating any assessment payments as an expense of the member insurer for all purposes.

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