



Ohio Revised Code

Section 3956.09 Member assessments.

Effective: November 20, 1989

Legislation: House Bill 89 - 118th General Assembly

(A) For the purpose of providing the funds necessary to carry out the powers and duties of the Ohio life and health insurance guaranty association, the board of directors shall assess the member insurers, separately for each subaccount or account, at such time and for such amounts as the board finds necessary. Assessments shall be due not less than thirty days after prior written notice to the member insurers and shall accrue interest at ten per cent per year on and after the due date.

(B) There shall be two classes of assessments, as follows:

(1) Class A assessments shall be made for the purpose of meeting administrative and legal costs and other expenses, and the cost of examinations conducted under division (E) of section 3956.12 of the Revised Code. Class A assessments may be made whether or not related to a particular impaired or insolvent insurer.

(2) Class B assessments shall be made to the extent necessary to carry out the powers and duties of the association under section 3956.08 of the Revised Code with regard to an impaired or an insolvent insurer.

(C)(1) The amount of any class A assessment shall be determined by the board and may be made on a pro rata or non-pro rata basis. If pro rata, the board may provide that it be credited against future class B assessments. A non-pro rata assessment shall not exceed two hundred dollars per member insurer in any one calendar year. The amount of any class B assessment shall be allocated for assessment purposes among the subaccounts and accounts pursuant to an allocation formula which may be based on the premiums or reserves of the impaired or insolvent insurer or on any other standard considered by the board in its sole discretion as being fair and reasonable under the circumstances.

(2) Class B assessments against member insurers for each subaccount or account shall be in the proportion that the premiums received on business in this state by each assessed member insurer on



policies or contracts covered by each subaccount or account for the most recent three calendar years for which information is available preceding the year in which the insurer became impaired or insolvent, as the case may be, bears to such premiums received on business in this state for such calendar years by all assessed member insurers.

(3) Assessments for funds to meet the requirements of the association with respect to an impaired or insolvent insurer shall not be made until necessary to implement the purposes of this chapter.

Classification of assessments under division (B) of this section and computation of assessments under this division shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible.

(D) The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. If an assessment against a member insurer is abated, or deferred in whole or in part, the amount by which the assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section. In determining whether the payment of an assessment would endanger the ability of a member insurer to fulfill its contractual obligations, the board shall consider the adequacy of the capital and surplus of the member insurer in relation to the premiums written, the assets, and the reserve liabilities of that member insurer.

(E)(1) The total of all assessments upon a member insurer for the life insurance and annuity account, which includes the life insurance subaccount, the annuity subaccount, and the unallocated annuity subaccount, shall not in any one calendar year exceed two per cent of the insurer's average premiums received per year in this state on the policies and contracts covered by each such subaccount, and for the health insurance account, shall not in any one calendar year exceed two per cent of the insurer's average premiums received per year in this state on the policies and contracts covered by such account, during the three calendar years preceding the year in which the impaired or insolvent insurer or insurers became impaired or insolvent. If the maximum assessment for a subaccount or account, together with the other assets of the association in the subaccount or account, does not provide in any one year in the subaccount or account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed for the subaccount or account as soon thereafter in succeeding years as permitted by division (E) of this section.



(2) If the maximum assessment under division (E)(1) of this section for any subaccount of the life insurance and annuity account in any succeeding year does not provide an amount sufficient to carry out the responsibilities of the association, then pursuant to division (C)(2) of this section, the board shall allocate the necessary additional amount among the other subaccounts of the life and annuity account in the manner set forth in division (E)(1) of this section, but the maximum assessment for a subaccount shall not exceed one per cent in any one calendar year.

(3) Where assessments for two or more impaired or insolvent insurers have been made within the same calendar year, and the sum of those assessments exceeds the two per cent calendar year assessment limitation under division (E)(1) of this section, the board, with the approval of the superintendent of insurance, may allocate among the accounts of such insurers the sums assessed within the two per cent limitation.

(F) The board, by an equitable method as established in the plan of operation, may refund to member insurers, in proportion to the contribution of each insurer to that subaccount or account, the amount by which the assets of the subaccount or account exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to that subaccount or account, including assets accruing from assignment, subrogation, net realized gains, and income from investments. A reasonable amount may be retained in any subaccount or account to provide funds for the continuing expenses of the association and for future losses.

(G) A member insurer, in determining its premium rates and policyowner dividends as to any kind of insurance within the scope of this chapter, may consider the amount reasonably necessary to meet its assessment obligations under this section.

(H) The association, upon request, shall issue to an insurer paying an assessment under this section, other than a class A assessment, a certificate of contribution, in a form approved by the superintendent, for the amount of the assessment so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in the form and for the amount, net of any amounts recovered through a tax offset, and for the period of time the superintendent may approve.



(I) Any member insurer that has contributed funds to pay claims of an impaired or insolvent insurer, pursuant to an agreement entered into with the superintendent and approved by the Franklin county court of common pleas during the five years preceding the effective date of this section, or at any time following the effective date of this section, shall receive a credit against any assessments levied pursuant to this section, whether the assessments are class A assessments or class B assessments, in the amount of the contribution.

If the amount of the credit exceeds the amount of assessments levied upon a member insurer in any one year, the balance of that credit shall be carried forward to subsequent years and will reduce the amount of future assessments until the total amount of the credit has been applied to the future assessments.

For the purposes of this division, an impaired or insolvent insurer is an insurer that meets the definitions set forth in section 3956.01 of the Revised Code, and any insurer that would have met these definitions, if it had been in effect at the time of such contribution.

(J) Division (I) of this section does not apply if an insurer has contributed funds pursuant to that division and has offset those contributions against its premium or franchise tax liability pursuant to any provision of the Revised Code authorizing the establishment of a plan for the distribution of voluntary contributions to pay the life, sickness and accident, or annuity claims of residents of this state that are unpaid due to the insolvency of an insolvent insurer.