

**CHAPTER 107. ASSESSMENT PROVISIONS IN MUTUAL
INSURANCE COMPANY POLICIES**

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Authority

The provisions of this Chapter 107 issued under sections 354 and 808 of The Insurance Company Law of 1921 (40 P. S. §§ 477 and 918); section 509.1 of The Insurance Department Act of 1921 (40 P. S. § 209.1); sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411, and 412) and 45 Pa.C.S. §§ 501—907, unless otherwise noted.

Source

The provisions of this Chapter 107 adopted November 1, 1974, 4 Pa.B. 2328, unless otherwise noted.

§ 107.1. Contingent liability required.

Consistent with the expression of the “maximum premium” payable as required by section 806 of The Insurance Company Law of May 1921 (40 P. S. § 916), each assessable policy issued in this Commonwealth shall cause the insured to assume a contingent liability for assessment for each one year period during which his policy is in force.

§ 107.2. Disclosure.

(a) The “Contingent Liability” of the insured and the “Time for Assessment” shall be clearly and prominently located in each policy in such manner as to alert and fully disclose to the insured the nature and terms of his contractual agreement regarding contingent liability. It shall be made clear that the amount of contingent liability assumed by an insured will be equal to the maximum assessment which the company may make.

(b) The Commissioner shall deem policy forms which include the notice “THIS IS AN ASSESSABLE POLICY,” printed in accordance with § 133.9 (relating to assessable policy) and equally prominent language referring to the page and paragraph or section number, if any, where the assessment provisions are located, to have satisfied the disclosure requirements of this section.

Source

The provisions of this § 107.2 amended November 14, 1975, 5 Pa.B. 2980. Immediately preceding text appears at serial page (18377).

§ 107.3. Minimum amount of contingent liability.

(a) No assessable policy form submitted for Department approval after February 1, 1975, will be approved unless contract language comparable to the following subsections, where applicable, is included. Calculation of the actual amount of contingent liability, where possible, is acceptable.

(b) Where the policy states an annual premium which remains constant for all years, the contingent liability for each year the policy is in force shall be an amount equal to the annual premium stated in the policy.

(c) Where the policy states an annual premium which varies from year to year for any reason, the contingent liability required for each year the policy is in force shall be an amount equal to the average yearly cost or premium of the policy for the period it has been in effect.

(d) Where the policy does not state an annual premium other than an initial maintenance charge or policy writing fee which is not designed to form a fund for the payment of losses, the contingent liability for assessment shall not be greater than the proportionate share of losses, loss adjustment expenses and reasonable operational expenses sustained by the insurer during the most recent annual assessment period or applicable portion thereof.

(e) Where any policy is terminated for any reason before being in force for 1 year, the contingent liability required shall be an appropriate pro rata amount of the contingent liability otherwise required.

Source

The provisions of this § 107.3 amended November 14, 1975, 5 Pa.B. 2980. Immediately preceding text appears at serial pages (18377) and (18378).

§ 107.4. Time for collection of assessment.

Procedures for the collection of the contingent liability for assessment assumed by each policyholder may be initiated at any time within two years from the date of expiration or cancellation of the policy. In no case shall an assessment be made or collection procedures begun for losses incurred by the company more than two years prior to the date of the making of such assessment.

§ 107.5. Inconsistent provisions.

This chapter will supersede the provisions of any other regulation, rule, or order inconsistent with the provisions of this chapter, to the extent of such inconsistency.

Source

The provisions of this § 107.5 amended November 14, 1975, 5 Pa.B. 2980. Immediately preceding text appears at serial page (18378).

§ 107.6. Existing contracts.

The provisions of this chapter are not intended and shall not be construed to alter, amend, or otherwise affect the validity of any contract of insurance presently in force. Upon renewal of existing contracts, however, the provisions of this chapter shall be complied with.

§ 107.7. Compliance with this chapter.

(a) Compliance may be made by issuance of riders to the policy or by amendment of the policy itself. After the effective date of this chapter, no new policy forms will be approved which do not comply with this chapter. All policies issued after December 31, 1977, must include the required terms in the policy itself, rather than by rider or endorsement.

(b) Present supplies of policy forms may, if endorsed by approved riders incorporating the assessment conditions, be used by all companies until exhausted or until December 31, 1977, whichever occurs first.

(c) New policy or rider forms shall be submitted to the Insurance Department for review. Approval thereof shall be obtained prior to the use of such forms for any purpose.

(d) This chapter shall become effective February 1, 1975.

Source

The provisions of this § 107.7 amended November 14, 1975, effective November 15, 1975, 5 Pa.B. 2980. Immediately preceding text appears at serial page (18379).

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