§ 58-15-65. Nonassessable policies.

(a) The Commissioner may issue a certificate authorizing the reciprocal to reduce or extinguish the contingent assessment liability of subscribers under its policies then in force in this State and to omit provisions imposing contingent assessment liability in all policies delivered or issued for delivery in this State for as long as all such surplus to policyholders remains unimpaired. The certificate may be issued if (i) a reciprocal has surplus to policyholders of at least two million dollars ($2,000,000), and (ii) an application of the attorney has been approved by the subscribers' advisory committee.

(b) The Commissioner shall issue this certificate if the conditions of subsection (a) of this section are met and if he determines that the reciprocal's surplus to policyholders is reasonable in relation to the reciprocal's outstanding liabilities and is adequate to meet its financial needs. In making that determination the following factors, among others, shall be considered:

(1) The size of the reciprocal as measured by its assets, capital and surplus, reserves, premium writings, insurance in force, and other appropriate criteria;
(2) The extent to which the reciprocal's business is diversified among different kinds of insurance;
(3) The number and size of risks insured in each kind of insurance;
(4) The extent of the geographic dispersion of the reciprocal's insured risks;
(5) The nature and extent of the reciprocal's reinsurance program;
(6) The quality, diversification, and liquidity of the reciprocal's investment portfolio;
(7) The recent past and trend in the size of the reciprocal's surplus to policyholders;
(8) The surplus to policyholders maintained by other comparable insurers; and
(9) The adequacy of the reciprocal's reserves.

(c) Upon impairment of the surplus to policyholders as described in subsection (a) of this section, the Commissioner shall revoke the certificate. After revocation, the reciprocal shall not issue or renew any policy without providing for the contingent assessment liability of subscribers.

(d) The Commissioner shall not authorize a domestic reciprocal to extinguish the contingent assessment liability of any of its subscribers or in any of its policies to be issued, unless it has the required surplus to policyholders and extinguishes the contingent assessment liability of all of its subscribers and in all policies to be issued for all kinds of insurance it writes. However, if required by the laws of another state in which the domestic reciprocal is transacting the business of insurance as a licensed insurer, it may issue policies providing for the contingent assessment liability of its subscribers that acquire policies in that state and need not extinguish the contingent assessment liability applicable to policies already in force in that state. (1989, c. 425, s. 1.)