

**§ 58-45-85. Assessment; inability to pay.**

(a) If any insurer fails, by reason of insolvency, to pay any assessment as provided in this Article, the amount assessed each insurer shall be immediately recalculated, excluding the insolvent insurer, so that its assessment is assumed and redistributed among the remaining insurers. Any assessment against an insolvent insurer shall not be a charge against any special deposit fund held under the provisions of Article 5 of this Chapter for the benefit of policyholders.

(b) The nonrecoupable assessment of a member insurer may be ordered deferred in whole or in part upon application by the insurer if, in the opinion of the Commissioner or his designee, payment of the assessment would render the insurer insolvent or in danger of insolvency or would otherwise leave the insurer in a condition so that further transaction of the insurer's business would be hazardous to its policyholders. If payment of an assessment against a member insurer is deferred by order of the Commissioner or his designee in whole or in part, the amount by which the assessment is deferred must be assessed against other member insurers in the same manner as provided in this Article. In its order of deferral, or in necessary subsequent orders, the Commissioner or his designee shall prescribe a plan by which the assessment so deferred must be repaid to the Association by the impaired insurer with interest at the six-month treasury bill rate adjusted semiannually. The plan also shall provide for the reimbursement of excess assessments paid by member companies as a result of a deferral of assessments for an impaired insurer. (1991 (Reg. Sess., 1992), c. 784, s. 7; 2009-472, s. 1.)