

### **304.24-230 Levy of contingent liability.**

- (1) If at any time the assets of a domestic mutual insurer are less than its liabilities and the minimum amount of surplus required to be maintained by it under this code for authority to transact the kinds of insurance being transacted, and the deficiency is not cured from other sources, its directors may, if the same is approved by the commissioner, levy an assessment only on its members who held policies providing for contingent liability at any time within the twelve (12) months next preceding the date the levy was authorized by the board of directors, and such members shall be liable to the insurer for the amount so assessed.
- (2) The levy of assessment shall be for such an amount, subject to the commissioner's approval, as is required to cure such deficiency and to provide a reasonable amount of working funds above such minimum amount of surplus, but such working funds so provided shall not exceed five percent (5%) of the sum of the insurer's liabilities and such minimum required surplus as of the date of the levy.
- (3) As to the respective policies subject to the levy, the assessment shall be computed upon such reasonable basis as may be approved by the commissioner in writing in advance of the levy.
- (4) No member shall have an offset against any assessment for which he or she is liable, on account of any claim for unearned premium or loss payable.
- (5) As to life insurance, any part of such assessment upon a member which remains unpaid following notice of assessment, demand for payment, and lapse of a reasonable waiting period as specified in such notice, may, if approved by the commissioner as being in the best interests of the insurer and its members, be secured by placing a lien upon the cash surrender values and accumulated dividends held by the insurer to the credit of the member.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 1334, effective July 15, 2010. -- Created 1970 Ky. Acts ch. 301, subtit. 24, sec. 23, effective June 18, 1970.