§ 4209. Mutual life insurance companies, mutual accident and health insurance companies; assessments. (a) (1) No domestic mutual life insurance company shall issue any policy of life or accident and health insurance or any annuity contract providing for the payment of any assessment by any policyholder or member in addition to the regular premium or consideration charged therefor; nor shall any such company have power to levy or collect any such assessment.

(2) No foreign or alien life insurance company shall do business in this state if it does business anywhere on any assessment plan.

(b) (1) Except as provided in subsection (c) hereof, every domestic mutual accident and health insurance company shall provide in its policies that every member shall be liable for an assessment, in addition to the amount of premiums paid or payable, in an amount not exceeding the maximum named therein, which shall be not less than one annual premium on the policy; if the assessment liability is unlimited the policy shall so provide.

(2) If any domestic mutual accident and health insurance company does not have admitted assets at least equal to the aggregate of its liabilities, reserves and its minimum surplus as required by this chapter, and if such impairment is not otherwise rectified, the board of directors of such company may, with the approval of the superintendent and within such time as he prescribes, order an assessment as specified in its by-laws for an amount which will provide sufficient funds to rectify such impairment, except that no member of such company shall be liable for an assessment exceeding the limit specified in his policy.

(3) All such orders of assessment shall be filed with the superintendent and shall not take effect unless and until approved by him. The superintendent may refuse any such approval if, in his judgment, such refusal will best promote the interests of the policyholders and creditors of such company, and of the insuring public. Such assessment shall be made upon all members liable to assessment therefor in proportion to their several liabilities.

(4) Every person who was a member of such company at any time during two years prior to the making of an order of assessment by the board of directors shall pay his proportionate part of any such assessment if he is notified of such assessment within one year after the making of an order of assessment. A member's proportionate part of any assessment

shall be determined by applying to the premium earned on the member's policy or policies during the period to be covered by the assessment the ratio of the total assessment to the total premiums earned during such period on all policies subject to assessment.

(c) Every mutual accident and health insurance company licensed to do business in this state, if its charter or by-laws permit or are amended to permit the issuance of policies without contingent mutual liability of the policyholders for assessment, may with the permission of the superintendent issue non-assessable policies in this state. Every such company shall submit a copy of its proposed non-assessable policy or policies for approval of the superintendent, and shall have obtained his approval thereof. Every policy issued by any such company shall clearly state whether or not the holder of such policy is subject to a liability for assessment.

(d) (1) Any foreign mutual accident and health insurance company which complies with the requirements of subsection (c) hereof for the issuance of non-assessable policies may do an insurance business in this state without complying with the requirements of subsection (b) hereof.

(2) No such company which does not comply with the requirements of subsection (c) hereof shall do an insurance business in this state unless its by-laws and its policies issued in this state contain provisions for the levying and collection of assessments upon members, at least for the payment of losses and expenses, which conform in substance to the requirements of subsection (b) hereof.