§ 7430. Levy of assessments; determination of liability of members. (a) Within three years from the date of an order of rehabilitation or liquidation of a domestic mutual insurer filed in the office of the clerk of the county in which the insurer had its principal office, the superintendent may make a report to the court setting forth:

(1) the reasonable value of the insurer's assets;

(2) its probable liabilities; and

(3) the probable necessary assessment, if any, to pay all possible claims and expenses in full, including expenses of administration.

(b) (1) Upon the basis of such report, including any amendments, the court, ex parte, may levy one or more assessments against all members of such insurer who, as shown by the records of the company, were members at any time within one year prior to the date of the issuance of the order to show cause under section seven thousand four hundred seventeen of this article.

(2) The assessments shall cover the excess of the insurer's probable liabilities over the reasonable value of its assets and the estimated cost of collection and percentage of uncollectibility thereof.

(3) The total assessments against any member with respect to any policy, whether levied by the board of directors of such insurer, the superintendent in liquidation or rehabilitation of such insurer, or otherwise, and whether levied to make good an impairment of required minimum surplus or for any other purpose under this chapter, shall be for no greater amount than that specified in the by-laws and policies of that member and may be limited as prescribed in subsection (a) of section four thousand one hundred eleven of this chapter. However, if the court finds that such policy was issued at a rate of premium below the minimum rate lawfully permitted for the risk insured, the court may determine the upper limit of such assessment upon the basis of an adequate rate for such insurance.

(4) No such assessment shall be levied against any member with respect to any non-assessable policy issued in accordance with the laws of this state.

(c) Thereafter, upon the filing of a further detailed report by the superintendent, the court shall issue an order directing each member of such insurer if he shall not pay the amount assessed against him to the superintendent on or before a day to be specified in said order, to show

cause why he should not be held liable to pay such assessment together with costs as set forth in subsection (e) hereof and why the superintendent should not have judgment therefor.

(d) The superintendent shall at least twenty days before the return day of the order cause a notice of such order setting forth a brief summary of the contents of such order to be published in such manner as shall be directed by the court and mailed to each member at his last known address appearing on the records of the insurer, or at his last known address, if no address so appears.

(e) On the return day of such order to show cause, if such member shall not appear and serve verified objections upon the superintendent, the court shall make an order adjudging that such member is liable for the amount of such assessment together with ten dollars costs and directing that the superintendent may have judgment therefor. If the member shall appear and serve verified objections upon the superintendent there shall be a full hearing before the court or a referee to hear and determine, who, after such hearing, shall make an order either negativing the liability of such member to pay the assessment or directing that the superintendent may have judgment for the whole or some part of the assessment and twenty-five dollars costs and necessary disbursements incurred at such hearing.

(f) A judgment upon any such order, whether granted by a court or referee, shall have the same force and effect, and may be entered and docketed, and may be appealed from as if it were a judgment in an original action brought in the court in which the proceeding is pending.