§ 7709. Assessments. (a) For the purpose of providing the funds necessary to carry out the powers and duties of the corporation, the board of directors shall assess the member insurers, separately for each account, at such time and for such amounts as the board finds necessary in accordance with the provisions of paragraph three of subsection (c) of this section. Assessments shall be due on the date set by the board which shall be not less than thirty days nor more than sixty days after prior written notice to the member insurers. Assessments shall accrue interest at the maximum rate allowed by subdivision one of section 5-501 of the general obligations law on and after the due date.

(b) There shall be three classes of assessments, as follows:

(1) Class A assessments shall be made for the purpose of meeting administrative costs and other general expenses.

(2) Class B assessments shall be made to the extent necessary to carry out the powers and duties of the corporation under section seven thousand seven hundred eight of this article with regard to an impaired or insolvent domestic insurer.

(3) Class C assessments shall be made to the extent necessary to carry out the powers and duties of the corporation under section seven thousand seven hundred eight of this article with regard to an impaired or insolvent foreign or alien insurer.

(c) (1) The amount of any class A assessment shall be determined by the board and may be made on a non pro rata basis. Such assessment shall be credited against future impairment or insolvency assessments. The maximum such assessment against any member insurer in any calendar year shall be determined, in accordance with the table set forth below, on the basis of its admitted assets as shown on its annual statement required by this chapter for the year next preceding the date of such assessment:

Companies with Admitted Assets of	Maximum Assessment
Up to $50,000,000	$200
$50,000,000 to $1,000,000,000	$1000
$1,000,000,000 or more	$2000

(2) The amount of any class B or class C assessment, except for assessments related to long-term care insurance, shall be allocated for assessment purposes among the accounts in the proportion that the premiums received by the impaired or insolvent insurer on the policies

or contracts covered by each account for the last calendar year preceding the assessment in which the impaired or insolvent insurer received premiums bears to the premiums received by such insurer for such calendar year on all covered policies. The amount of any class B or class C assessment for long-term care insurance written by the impaired or insolvent insurer shall be allocated according to a methodology included in the plan of operation and approved by the superintendent. The methodology shall provide for fifty percent of the assessment to be allocated to health insurance company member insurers and fifty percent to be allocated to life insurance company member insurers; provided, however, that a property/casualty insurer that writes health insurance shall be considered a health insurance company member for this purpose. Class B and class C assessments against member insurers for each account shall be in the proportion that the premiums received on business in this state by each assessed member insurer on policies covered by each account for the three calendar years preceding the assessment bears to such premiums received on business in this state for such calendar years by all assessed member insurers. Class B and Class C assessments against member insurers for the health insurance account shall be further reduced for not-for-profit member insurers pursuant to a methodology included in the plan of operation and approved by the superintendent. Such methodology shall reduce the assessments imposed on not-for-profit member insurers in an amount that, when accounting for appropriate factors, including the value of the tax credits and a factor for the time value of money, results in a percentage of net assessments to premiums that is equivalent for not-for-profit member insurers and for-profit member insurers.

(3) Assessments for funds to meet the requirements of the corporation with respect to an impaired or insolvent insurer shall be made within a reasonable time after deemed necessary by the superintendent to implement the purposes of this article. Classification of assessment under subsection (b) of this section and computation of assessments under this subsection shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible.

(d) The corporation may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment

of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. In the event an assessment against a member insurer is abated, or deferred in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section.

(e) (1) With respect to a member insurer that is a domestic insurer and is subject to an order of rehabilitation under article seventy-four of this chapter as of March first, two thousand twelve, the total assessment against all member insurers for impairments and insolvencies, less the amount of refunds (not including interest) to member insurers pursuant to subsection (f) of this section, shall be five hundred fifty-eight million dollars; provided, however, that such five hundred fifty-eight million dollar total shall be subject to reduction in an amount, if any, determined by the superintendent, on a date not earlier than twelve months after the entry of an order of liquidation with respect to such domestic insurer, to be not needed for the corporation to be able to pay its obligations and reasonable expenses in connection with the liquidation of such domestic insurer, but in no event shall such reduction exceed fifty-eight million dollars.

(2) The total of all assessments upon a member insurer for each account shall not in any one calendar year exceed two percent of such insurer's premiums received in this state during the calendar year preceding the assessment on the policies covered by the account. If the maximum assessment, together with the other assets of the corporation in either account, does not provide in any one year in either account an amount sufficient to carry out the responsibilities of the corporation, the necessary additional funds shall be assessed as soon thereafter as permitted by this article.

(f) The board may, by an equitable method as established in the plan of operation, refund to member insurers, by retirement of certificates of contribution in proportion to the contribution of each insurer to that account, the amount by which the assets of the account exceed the amount the board finds necessary to carry out during the coming year the obligations of the corporation with regard to that account, including assets accruing from net realized capital gains and income from investments. A reasonable amount may be retained in any account to

provide funds for the continuing expenses of the corporation and for future losses if refunds are impractical.

(g) It shall be proper for any member insurer, in determining its premium rates and policy owner dividends as to any kind of insurance within the scope of this article, to consider the amount reasonably necessary to meet its assessment obligations under this article with respect to insurers which have become impaired or insolvent.

(h) The corporation shall issue to each insurer paying an assessment under this article, other than a class A assessment, a certificate of contribution, in a form prescribed by the superintendent, for the amount of the assessment so paid. All outstanding certificates shall be of equal dignity and priority irrespective of amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in such form and for such amount, if any, and period of time as the superintendent may approve.