



LOUISIANA DEPARTMENT OF INSURANCE
JAMES J. DONELON
COMMISSIONER

BULLETIN 2022-03

TO: ALL AUTHORIZED PROPERTY AND CASUALTY INSURERS
FROM: JAMES J. DONELON, COMMISSIONER OF INSURANCE
**RE: MEMBER INSURER RECOUPMENT OF ASSESSMENTS MADE BY
THE LOUISIANA INSURANCE GUARANTY ASSOCIATION**
DATE: MARCH 15, 2022

Bulletin 2022-03 is hereby issued to provide guidance pertaining to a Louisiana Insurance Guaranty Association (LIGA) member insurer's recoupment of assessments made pursuant to La. R.S. 22:2058(A)(3).

Although LIGA had not assessed member insurers for the past seventeen years, the 2021 failures of Bedivere Insurance Company, American Capital Assurance Corporation, Gulfstream Property and Casualty Insurance Company, State National Fire Insurance Company, and Access Home Insurance Company have significantly increased LIGA's current claim payments and long-term reserves. Accordingly, on November 30, 2021, the LIGA Board of Directors ordered the full one percent 2021 assessment, calculated based on the net direct written premiums of the 2020 calendar year, due and payable no later than January 25, 2022.

La. R.S. 22:2058(A)(3) and La. R.S. 22:2066 provide for two separate and distinct methods for member insurers to recoup a paid LIGA assessment: (1) Recoupment Through Premium Tax Offset or (2) Recoupment Through Rates. Once an assessment has been paid, a member insurer shall determine which of the two methods of recoupment it will utilize. Only one method of recoupment shall be permitted for any given LIGA assessment. In the event that a LIGA assessment is issued in subsequent years, a member insurer may select either recoupment option irrespective of the method it may have selected for prior assessments.

In accordance with La. R.S. 22:2058(A)(3)(b), LIGA will issue a certificate of contribution to each member insurer for any assessment paid. The Louisiana Department of Insurance shall commence offsetting the LIGA assessment against a member insurer's premium tax liability in the year that the LIGA assessment was paid.¹ A certificate of contribution issued to a member insurer may be offset against its premium tax liability in an amount not to exceed ten percent of the LIGA assessment for the year in which the assessment was paid in full, and not to exceed ten percent of the assessment per year for each of the nine calendar years following the year in which such assessment was paid in full, not to exceed a total offset of one hundred percent for each assessment.

¹ As evidenced by the date reported when it is received by LIGA on the certificate of contribution.

During the calendar year of the issuance of a certificate of contribution, and yearly thereafter, a member insurer shall at its option have the right to show a certificate of contribution as an asset in the form approved by the Commissioner of Insurance (Commissioner) at percentages of the original face amount approved by the Commissioner, equal to the unused offset as of each such calendar year. These assets are considered probable assets and satisfy the definition of assets, as specified in National Association of Insurance Commissioners (NAIC) SSAP No. 4—Assets and Nonadmitted Assets, and are admitted assets to the extent that they conform to the requirements of NAIC SSAP No. 35R—Guaranty Fund and Other Assessments. Any recognized asset that is offset against its premium tax liability shall be reevaluated regularly to ensure its recoverability. Upon expiration, premium tax offsets no longer meet the definition of an asset and shall be written off in their entirety. An asset shall not be established for paid or accrued assessments that are recoverable through future premium rate structures.

La. R.S. 22:2058(A)(3)(a)(v) provides that a member insurer may transfer up to twenty percent annually of any offset as described in this Section to an affiliated insurer with the prior approval of the Commissioner.

In accordance with La. R.S. 22:2058(A)(3)(b)(iii), to the extent amounts have been written off against the premium tax liability of a member insurer, the recoupment of a LIGA assessment through rates shall not be permissible as outlined in La. R.S. 22:2066. Should a member insurer be unable to recoup the full LIGA assessment as a premium tax offset, any remaining amounts shall be written off in their entirety.

Pursuant to La. R.S. 22:2066, the rates and premiums charged for qualifying insurance policies, as established in La. R.S. 22:2053, shall include amounts sufficient to recoup a sum equal to the amounts paid to LIGA by a member insurer less any amounts returned to a member insurer by LIGA, and such rates shall not be deemed excessive because they contain an amount reasonably calculated to recoup assessments paid by the member insurer.

Specifically, an asset shall not be established for paid or accrued assessments that are recoverable through future premium rate structures.² Furthermore, all rate filings for qualifying lines of business should clearly indicate in the filing memorandum the amount of the LIGA assessment being recouped through an increase to rates. Regarding a LIGA assessment that will be recouped via rate increase:

- 1) The recoupment of the LIGA assessment should be spread over multiple years, and the preferred span is ten years.
- 2) The filing memorandum should clearly include the following:

² NAIC Statement of Statutory Accounting Principles No. 35-R.

- a) The dollar amount of the LIGA assessment that is impacting the proposed rates;
 - b) The rate impact of the LIGA assessment expressed as a percentage of premium;
 - c) The reason for recouping the LIGA assessment through a rate increase;
 - d) The projected end date for the rate impact of the LIGA assessment expressed as a percentage of premium.
- 3) The LIGA assessment component should be clearly depicted in the form of actuarial exhibits.

If there are any concerns regarding Bulletin 2022-03, please contact the Deputy Commissioner of the Office of Financial Solvency at (225) 219-3929 or electronically at public@ldi.la.gov.

Baton Rouge, Louisiana, this 15th day of March, 2022.



JAMES J. DONELON
COMMISSIONER OF INSURANCE