

CHAPTER 31.

SOUTH CAROLINA PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION

SECTION 38-31-10. Short title.

This chapter is known and may be cited as the “South Carolina Property and Casualty Insurance Guaranty Association Act”.

SECTION 38-31-20. Definitions.

As used in this chapter:

- (1) “Account” means any one of the four accounts created by Section 38-31-40.
- (2) “Affiliate” means a person who directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with an insolvent insurer on December thirty-first of the year next preceding the date the insurer becomes an insolvent insurer.
- (3) “Affiliate of the insolvent insurer” means a person who directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with an insolvent insurer on December thirty-first of the year next preceding the date the insurer becomes an insolvent insurer.
- (4) “Association” means the South Carolina Property and Casualty Insurance Guaranty Association created under Section 38-31-40.
- (5) “Association similar to the association” means any guaranty association, security fund, or other insolvency mechanism which affords protection similar to that of the association. The term also includes any property/casualty insolvency mechanism which obtains assessments or other contributions from insurers on a pre-insolvency basis.
- (6) “Claimant” means any insured making a first party claim or any person instituting a liability claim. However, no person who is an affiliate of the insolvent insurer may be a claimant.
- (7) “Control” means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control is presumed to exist if any person directly or indirectly owns, controls, holds with the power to vote, or holds proxies representing ten percent or more of the voting securities of any other person. This presumption may be rebutted by a showing that control does not exist in fact.
- (8) “Covered claim” means an unpaid claim, including one of unearned premiums, which arises out of and is within the coverage and is subject to the applicable limits of an insurance policy to which this chapter applies issued by an insurer, if the insurer is an insolvent insurer and (a) the claimant or insured is a resident of this State at the time of the insured event, if for entities other than an individual, the residence of a claimant or insured is the state in which its principal place of business is located at the time of the insured event or (b) the claim is for first-party benefits for damage to property permanently located in this State. ‘Covered claim’ does not include:
 - (a) any amount awarded as extra-contractual damages unless awarded against the association;
 - (b) any amount sought as a return of premium under any retrospective rating plan;
 - (c) any amount due any reinsurer, insurer, insurance pool, or underwriting association as subrogation recoveries, reinsurance recoveries, contribution, indemnification, or otherwise. No such claim for any amount due any reinsurer, insurer, insurance pool, or underwriting association may be asserted against a claimant or a person insured under a policy issued by an insolvent insurer other than to the extent such a claim exceeds the association obligation limitations set forth in Section 38-31-60;

(d) any first party claim by an insured whose net worth exceeds ten million dollars on December thirty-first of the year next preceding the date the insurer becomes an insolvent insurer; provided that an insured's net worth on such date must be deemed to include the aggregate net worth of the insured and all of its subsidiaries as calculated on a consolidated basis;

(e) any first party claims by an insured which is an affiliate of the insolvent insurer;

(f) any fee or other amount relating to goods or services sought by or on behalf of any attorney or other provider of goods or services retained by the insolvent insurer or an insured prior to the date it was determined to be insolvent;

(g) any fee or other amount sought by or on behalf of any attorney or other provider of goods or services retained by any insured or claimant in connection with the assertion or prosecution of any claim, covered or otherwise, against the association; or

(h) any claims for interest.

(9) "Insolvent insurer" means an insurer (a) licensed to transact insurance in this State either at the time the policy was issued or when the insured event occurred and (b) determined to be insolvent by a court of competent jurisdiction in the insurer's state of domicile or of this State and which the director or his designee has found fails to meet its obligation to policyholders in this State.

(10) "Insured" means any named insured, any additional insured, any vendor, lessor, or any other party identified as an insured under the policy.

(11) "Member insurer" means any person who (a) writes any kind of insurance to which this chapter applies under Section 38-31-30, including the exchange of reciprocal or interinsurance contracts, and (b) is licensed to transact insurance in this State. An insurer shall cease to be a member insurer effective on the day following the termination or expiration of its license to transact the kinds of insurance to which this chapter applies; however, the insurer shall remain liable as a member insurer for any and all obligations, including obligations for assessments levied prior to the termination or expiration of the insurer's license and assessments levied after the termination or expiration, which relate to any insurer which became an insolvent insurer prior to the termination or expiration of such insurer's license.

(12) "Net direct written premiums" means direct gross premiums written in this State on insurance policies to which this chapter applies, less return premiums on the policies and dividends paid or credited to policyholders on the direct business. It does not include premiums on contracts between insurers or reinsurers.

(13) "Person" means an individual, corporation, partnership, association, voluntary organization, or governmental entity.

SECTION 38-31-30. Application of chapter.

This chapter applies to all kinds of direct insurance but does not apply to the following:

(1) life, annuity, health, or accident insurance;

(2) mortgage guaranty, financial guaranty, or other forms of insurance offering protection against investment risks;

(3) fidelity or surety bonds, or any other bonding obligations;

(4) credit insurance, vendors' single interest insurance, collateral protection insurance, or any similar insurance protecting the interests of a creditor arising out of a creditor-debtor transaction;

(5) insurance of warranties or service contracts;

(6) insurance written on a retroactive basis to cover known losses which have resulted from an event with respect to which a claim has already been made, and the claim is known to the insurer at the time the insurance is bound;

(7) title insurance;

(8) ocean marine insurance; ocean marine insurance includes marine insurance as defined in Section 38-1-20(28), except for inland marine, and includes any other form of insurance, regardless of the name, label, or marketing designation of the insurance policy, which insures against maritime perils or risks and other related perils or risks, which are usually insured against by traditional marine insurance, such as hull

and machinery, marine builders risk, and marine protection and indemnity. Such perils and risk insured against include without limitation loss, damage, or expense or legal liability of the insured for loss, damage, or expense arising out of or incident to ownership, operation, chartering, maintenance, use, repair, or construction of any vessel, craft, or instrumentality in use in ocean or inland waterways, including liability of the insured for personal injury, illness, or death or for loss or damage to the property of the insured or another person;

(9) any transaction or combination of transactions between a person, including affiliates of the person, and an insurer, including affiliates of the insurer, which does not effect a transfer of risk from the person, including affiliates of the person, to the insurer, including affiliates of the insurer, to the extent there is not a transfer of risk.

SECTION 38-31-40. Association created; membership as condition of authority to transact insurance; accounts.

There is created a nonprofit unincorporated legal entity to be known as the South Carolina Property and Casualty Insurance Guaranty Association. All insurers defined as member insurers in Section 38-31-20(8) are members of the association as a condition of their authority to transact insurance in this State. The association shall perform its functions under a plan of operation established and approved under Section 38-31-70 and shall exercise its powers through a board of directors established under Section 38-31-50. For purposes of administration and assessment, the association is divided into four separate accounts:

- (a) the workers' compensation insurance account;
- (b) the automobile insurance account;
- (c) the homeowners multiple peril and farmowners multiple peril insurance account;
- (d) the account for all other insurance to which this chapter applies.

SECTION 38-31-50. Board of directors.

(1) The board of directors of the association shall consist of not less than five nor more than nine persons who shall serve terms as established in the plan of operation. Member insurers shall select the members of the board subject to the approval of the director. Any vacancy on the board must be filled for the unexpired portion of the term in the same manner as any initial appointment.

(2) In approving selections to the board, the director shall consider, among other things, whether all member insurers are fairly represented.

(3) Members of the board may be reimbursed from the assets of the association for expenses incurred by them as members of the board of directors.

SECTION 38-31-60. Powers and duties of Association.

The association:

(a) is obligated to the extent of claims existing before the determination of insolvency and claims arising up to the earliest of the following dates:

- (i) thirty days after the determination of insolvency;
- (ii) the policy expiration date; or
- (iii) the date the insured replaces or cancels the policy.

(iv) Notwithstanding any other provisions of this chapter, except in the case of a claim for benefits under worker's compensation coverage, any obligation of the association to or on behalf of an insured and its affiliates on all covered claims combined shall cease when ten million dollars shall have been paid in the aggregate by the association and any one or more associations similar to the association of any other state or states, to or on behalf of that insured, its affiliates, and additional insureds on covered claims or allowed claims arising under the policy or policies of any one insolvent insurer. If the association

determines that there may be more than one claimant having a covered claim or allowed claim against the association, or any associations similar to the association in other states, under the policy or policies of any one insolvent insurer, the association may establish a plan to allocate amounts payable by the association in such manner as the association in its discretion considers equitable.

This obligation includes only the amount each covered claim is in excess of two hundred fifty dollars and is less than three hundred thousand dollars. However, the association shall pay the full amount of any covered workers' compensation claim. The association has no obligation to pay a claimant's covered claim, except a workers' compensation claim, if:

(1) the insured had primary coverage at the time of the loss with a solvent insurer equal to or in excess of three hundred thousand dollars and applicable to the claimant's loss; or

(2) the insured's coverage is written subject to a self-insured retention equal to or in excess of three hundred thousand dollars. If the primary coverage and self-insured retention is less than three hundred thousand dollars, the association's obligation to the claimant is reduced by the coverage or retention. The Guaranty Association shall pay the full amount of a covered workers' compensation claim to a claimant notwithstanding any self-insured retention but the Guaranty Association has the right to recover the amount of the self-insured retention from the employer. The association is not obligated to pay a claimant an amount in excess of the obligation of the insolvent insurer under the policy or coverage from which the claim arises. A covered claim does not include any claim filed with the association after the final date set by a court for the filing of claims against the liquidator or receiver of an insolvent insurer, or any claim filed with the association more than eighteen months after the declaration of insolvency, whichever date occurs first; provided, however, that this provision shall be without prejudice to the filing of a claim with the liquidator or receiver of an insolvent insurer or the filing of a claim with any other Guaranty Association or similar organization in another state. The association shall pay only that amount of each unearned premium which is in excess of one hundred dollars;

(b) is considered the insurer to the extent of its obligation on the covered claims and, to this extent, has all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent. However, the association has the right but not the obligation to defend an insured who is not a resident of this State at the time of the insured event unless the property from which the claim arises is permanently located in this State in which instance the association does have the obligation to defend the insured;

(c) shall allocate claims paid and expenses incurred among the four accounts separately and assess member insurers separately for each account amounts necessary to pay:

(i) the obligation of the association under item (a) of this section;

(ii) the expenses of handling covered claims;

(iii) other expenses authorized by this chapter.

The assessments of each member insurer must be in the proportion that the net direct written premiums of the member insurer for the calendar year preceding the insolvency on the kinds of insurance in the account bear to the net direct written premiums of all member insurers for the calendar year preceding the insolvency on the kinds of insurance in the account. Each member insurer must be notified of the assessment not later than thirty days before it is due. No member insurer may be assessed in any year on any account an amount greater than one percent of that member insurer's net direct written premiums for the calendar year preceding the insolvency on the kinds of insurance in the account. If the maximum assessment, together with the other assets of the association in any account, does not provide in any year an amount sufficient to make all necessary payments from that account, the funds available must be prorated, and the unpaid portion must be paid as soon after proration as funds become available. The association may exempt or defer, in whole or in part, the payment of an assessment of any member insurer, if the payment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance. Any member insurer serving in the capacity of a servicing carrier for the South Carolina Reinsurance Facility, the South Carolina Windstorm and Hail Underwriting Association, the Medical Malpractice Joint Underwriting Association, or any other involuntary association must not be assessed for the premiums so written, but the assessment must be

made directly against the facility, pool, joint underwriting association, or other association. Each member insurer serving as a servicing facility on behalf of the association may set off against any assessment authorized payments made on covered claims and expenses incurred in the payment of the claims by the member insurer;

(d) shall investigate claims brought against the association and adjust, compromise, settle, and pay covered claims to the extent of the association's obligation and deny all other claims and may review settlements, releases, and judgments to which the insolvent insurer or its insureds were parties to determine the extent to which these settlements, releases, and judgments may be properly contested;

(e) shall notify any person the director or his designee directs under Section 38-31-80(2)(a);

(f) shall handle claims through its employees or through one or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the director or his designee, but designation may be declined by a member insurer;

(g) shall reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association and pay the other expenses of the association authorized by this chapter;

(h) may employ or retain persons necessary to handle claims and perform other duties of the association;

(i) may borrow funds necessary to effect the purpose of this chapter in accord with the plan of operation;

(j) may sue or be sued; provided, however, that any action brought directly against the association must be brought against the association in the State of South Carolina as a condition precedent to recovery directly against the association;

(k) may negotiate and become a party to contracts necessary to carry out the purpose of this chapter;

(l) may perform any other acts necessary or proper to effectuate the purpose of this chapter;

(m) may refund to the member insurers in proportion to the contribution of each member insurer to that account that amount by which the assets of the account exceed the liabilities, if, at the end of any calendar year, the board of directors finds that the assets of the association in any account exceed the liabilities of that account as estimated by the board of directors for the coming year.

SECTION 38-31-70. Plan of operation.

(1) The association shall submit to the department a plan of operation and any amendments necessary or suitable to assure the fair, reasonable, and equitable administration of the association. The plan of operation and any amendments become effective upon the written approval of the director or his designee. If the association fails to submit suitable amendments to the plan, the director or his designee shall, after notice and hearing, adopt and promulgate reasonable amendments necessary or advisable to effectuate the provisions of this chapter. These amendments continue in force until modified by the director or his designee or superseded by amendments submitted by the association and approved by the director or his designee.

(2) All member insurers shall comply with the plan of operation.

(3) The plan of operation shall:

(a) Establish the procedures whereby all the powers and duties of the association under Section 38-31-60 will be performed.

(b) Establish procedures for handling assets of the association.

(c) Establish the amount and method of reimbursing members of the board of directors under Section 38-31-50.

(d) Establish procedures by which claims may be filed with the association and establish acceptable forms of proof of covered claims. Notice of claims to the receiver or liquidator of the insolvent insurer is considered notice to the association or its agent and a list of these claims must be periodically submitted to the association or an association similar to the association in another state by the receiver or liquidator.

(e) Establish regular places and times for meetings of the board of directors.

(f) Establish procedures for records to be kept of all financial transactions of the association, its agents, and the board of directors.

(g) Provide that any member insurer aggrieved by any final action or decision of the association may appeal to the Administrative Law Judge Division as provided by law within thirty days after the action or decision.

(h) Establish the procedures whereby selections for the board of directors will be submitted to the department director.

(i) Contain additional provisions necessary or proper for the execution of the powers and duties of the association.

(4) The plan of operation may provide that any or all powers and duties of the association, except those under items (c) and (i) of Section 38-31-60, are delegated to a corporation, an association similar to the association, or another organization which performs or will perform functions similar to those of this association, or its equivalent, in two or more states. This corporation, association, or organization must be reimbursed as a servicing facility would be reimbursed and must be paid for its performance of any other functions of the association. A delegation under this subsection (4) takes effect only with the approval of both the board of directors and the director or his designee and may be made only to a corporation, association, or organization which extends protection not substantially less favorable and effective than that provided by this chapter.

SECTION 38-31-80. Powers and duties of director.

(A) The director or his designee shall:

(1) notify the association of the existence of an insolvent insurer not later than three days after he receives notice of the determination of the insolvency;

(2) upon request of the board of directors, provide the association with a statement of the net direct written premiums of each member insurer.

(B) The director or his designee may:

(1) require that the association notify the insureds of the insolvent insurer and other interested parties of the determination of insolvency and of their rights under this chapter. The notification must be by mail at their last known address, where available, but if sufficient information for notification by mail is not available, notice by publication in a newspaper of general circulation is sufficient;

(2) suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this State of a member insurer who fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the director or his designee may impose the penalties provided in Section 38-2-10;

(3) revoke the designation of a servicing facility if he finds claims are being handled unsatisfactorily;

(4) upon request of the board of directors, notwithstanding the limitation on assessments contained in Section 38-31-60(c)(iii), increase the maximum assessment in a year in an account in order for that assessment to provide an amount sufficient to make all necessary payments by the association from that account. However, no member insurer may be assessed in a year on an account under this provision an amount greater than two percent of the member insurer's net direct written premiums for the calendar year preceding the insolvency on the kinds of insurance in the account;

(5) after determining that an insurance emergency or catastrophe exists in this State pursuant to Insurance Department Regulation 69-1(2), direct the association to pay the first one hundred dollars of each unearned premium claim and the first two hundred fifty dollars of each covered claim, notwithstanding the provisions of Section 38-31-60(a).

SECTION 38-31-90. Effect of payment of claim under chapter; rights of association against assets of insolvent insurer.

(1) A person recovering under this chapter is considered to have assigned his rights under the policy to the association to the extent of his recovery from the association. Every insured or claimant seeking the protection of this chapter shall cooperate with the association to the same extent as he would have been

required to cooperate with the insolvent insurer. The association has no cause of action against the insured of the insolvent insurer for any sums it has paid out except the causes of action the insolvent insurer would have had if the sums had been paid by the insolvent insurer and except as provided in subsection (2). In the case of an insolvent insurer operating on a plan with assessment liability, payments of claims of the association do not operate to reduce the liability of insureds to the receiver, liquidator, or statutory successor for unpaid assessments.

(2) The association has the right to recover from the following persons the amount of any "covered claim" paid on behalf of such person pursuant to this chapter;

(a) an insured whose net worth on December thirty-one of the year immediately preceding the date the insurer becomes an insolvent insurer exceeds twenty-five million dollars and whose liability obligations to other persons are satisfied in whole or in part by payments made under this chapter; and

(b) a person who is an affiliate of the insolvent insurer and whose liability obligations to other persons are satisfied in whole or in part by payments made under this chapter.

(3) The receiver, liquidator, or statutory successor of an insolvent insurer is bound by settlements of covered claims by the association or an association similar to the association in another state. The court having jurisdiction shall grant these claims priority equal to that to which the claimant would have been entitled in the absence of this chapter against the assets of the insolvent insurer. The expenses of the association or an association similar to the association in handling claims must be accorded the same priority as the liquidator's expenses.

(4) The association shall periodically file with the receiver or liquidator of the insolvent insurer statements of the covered claims paid by the association and estimates of anticipated claims on the association which shall preserve the rights of the association against the assets of the insolvent insurer.

SECTION 38-31-100. Exhaustion of other coverage and claims.

(1) A person, having a claim under an insurance policy, whether or not it is a policy issued by a member insurer, and the claim under such other policy arises from the same facts, injury, or loss that gave rise to the covered claim against the association, is required to first exhaust all coverage and limits provided by any such policy. Any amount payable on a covered claim under this chapter must be reduced by the full limits of such other coverage as set forth on the declarations page and the association shall receive a full credit for such limits, or, where there are no applicable limits, the claim must be reduced by the total recovery. Notwithstanding the foregoing, no person may be required to exhaust all coverage and limits under the policy of an insolvent insurer.

(a) A claim under a policy providing liability coverage to a person who may be jointly and severally liable with or a joint tortfeasor with the person covered under the policy of the insolvent insurer that gives rise to the covered claim must be considered to be a claim arising from the same facts, injury, or loss that gave rise to the covered claim against the association. Any amount payable on a covered claim under this chapter must be reduced by the full and combined policy limits of all joint tortfeasors.

(b) To the extent that the association's obligation is reduced by the application of this section, the liability of the person insured by the insolvent insurer's policy for the claim must be reduced in the same amount.

(2) A person having a claim which may be recovered under more than one insurance guaranty association or associations similar to the association must be required first to exhaust all coverage and limits in recovery from the association of the place of residence of the insured except that, if it is a first-party claim for damage to property with a permanent location, he shall be required first to exhaust all coverage and limits in recovery from the association of the location of the property, and, if it is a workers' compensation claim, he shall be required first to exhaust all coverage and limits in recovery from the association of the residence of the claimant. Any amount payable on a covered claim under this chapter must be reduced by the full amount of recovery from any other insurance guaranty association or associations similar to the association, and the association shall receive full credit for such recovery.

(3) A person having a claim or legal right of recovery under any governmental insurance or guaranty program which is also a covered claim shall be required first to exhaust all coverage and limits in

recovery under the program. Any amount payable on a covered claim under this chapter must be reduced by the full amount of any recovery under the governmental insurance or guaranty program.

(4) No claim held by an insurer, reinsurer, insurance pool, or underwriting association based on an assignment or on rights of subrogation, or otherwise, may be recovered from a claimant or asserted in any legal action against a person insured under a policy issued by an insolvent insurer or the association except to the extent the amount of the claim exceeds the obligation of the association under this chapter.

(5) A person who has liquidated by settlement or judgment a claim against an insured under a policy issued by an insolvent insurer, and the claim is a covered claim and is also a claim within the coverage of any policy issued by a solvent insurer, must be required first to exhaust all coverage and limits provided under the policy issued by the solvent insurer before execution, levy, or any other proceedings are begun to enforce any judgment obtained against or the settlement with the insured of the insolvent insurer. Any amount payable on a covered claim under this chapter, whether through settlement, judgment, or otherwise, must be reduced by the full limits of such other coverage as set forth on the declarations page of the policy issued by the insolvent insurer.

(6) A person having a claim against an insolvent insurer under any provision in an insurance policy is limited to ten million dollars aggregate payout from the association.

(7) A person having a net worth of greater than twenty-five million dollars and having a claim against an insolvent insurer under any provision in an insurance policy may not make a claim against the association.

SECTION 38-31-110. Detection and prevention of insurer insolvencies.

(A) The board of directors, upon majority vote, may make recommendations to the director, his designee, and the department for the detection and prevention of insurer insolvencies.

(B) The board of directors, at the conclusion of any insurer insolvency in which the association was obligated to pay covered claims, may prepare a report on the history and causes of the insolvency, based on the information available to the association, and submit the report to the department.

(C) The board of directors, upon majority vote, may respond to requests by the director or his designee to discuss and make recommendations regarding the status of any member insurer whose financial condition may be hazardous to policyholders or the public. These recommendations are not considered public documents.

SECTION 38-31-120. Examination and regulation of Association; financial reports.

The association is subject to examination and regulation by the department. The board of directors shall annually submit, to the department, by March thirtieth a financial report for the preceding calendar year in a form approved by the director or his designee.

SECTION 38-31-130. Exemption of Association from fees and taxes.

The association is exempt from payment of all fees and all taxes levied by this State or any of its political subdivisions, except taxes levied on real or personal property.

SECTION 38-31-140. Rates.

The rates and premiums charged for insurance policies to which this chapter applies shall include amounts sufficient to recoup a sum equal to the amounts paid to the association by the member insurer less any amounts returned to the member insurer by the association. These rates may not be considered excessive because they contain an amount reasonably calculated to recoup assessments paid by the member insurer.

SECTION 38-31-150. Immunity from liability for action taken under chapter.

There is no liability on the part of, and no cause of action of any nature may arise against, any member insurer, the association's agents or employees, the board of directors, or the director or his representatives for any act or omission in the performance of their powers and duties under this chapter. This section does not relieve the association of any of its liability.

SECTION 38-31-160. Stay of proceedings involving insolvent insurers; rights of Association in these proceedings.

All proceedings involving covered claims in which the insolvent insurer is a party or is obligated to defend a party in any court in this State must be stayed ninety days from the date insolvency is determined to permit proper defense by the association. The court may stay the proceedings for a longer period of time if the court finds the additional time is necessary to permit proper defense by the association. As to any judgment, decision, order, verdict, or finding based on the insurer's default or failure to defend the insured, the association may apply to have the judgment, decision, order, verdict, or finding set aside by the same court or administrator which made it and must be permitted to defend against the claim on its merits.

SECTION 38-31-170. Termination of Association by director.

(1) The director or his designee shall by order terminate the operation of the association as to any kind of insurance covered by this chapter with respect to which he has found, after hearing, that there is in effect a statutory or voluntary plan which:

(a) is a permanent plan which is adequately funded or for which adequate funding is provided; and
(b) extends, or will extend, to the South Carolina policyholders and residents protection and benefits with respect to insolvent insurers not substantially less favorable and effective to such policyholders and residents than the protection and benefits provided with respect to such kinds of insurance under this chapter.

(2) The director or his designee shall by the same order authorize discontinuance of future payments by insurers to the association with respect to the same kinds of insurance. However, the assessments and payments must continue, as necessary, to liquidate covered claims of insurers adjudged insolvent prior to the order and the related expenses not covered by such other plan.

(3) In the event the operation of the association is terminated as to all kinds of insurance within its scope, the association shall as soon as possible thereafter distribute the balance of remaining money and assets, after first discharging the association's duties with respect to prior insurer insolvencies and related expenses not covered by such other plan. The distribution must be to the insurers which are then writing in this State policies of the kinds of insurance covered by this chapter and which had made payments to this association, pro rata upon the basis of the aggregate of the payments made by the respective insurers during the period of five years next preceding the date of the order. Upon completion of the distribution with respect to all of the kinds of insurance covered by this chapter, this chapter is considered to have expired.