

**§3955. Duties and powers of association****1. Duties.** The association shall:

A. Establish administrative and accounting procedures for the operation of the association; [PL 2011, c. 90, Pt. B, §8 (NEW).]

B. Select an association administrator in accordance with section 3956; [PL 2011, c. 90, Pt. B, §8 (NEW).]

C. Collect the assessments provided in section 3957. The level of payments must be established by the board. Assessments must be collected pursuant to the plan of operation approved by the board and adopted pursuant to section 3953, subsection 3. In addition to the collection of such assessments, the association shall collect an organizational assessment or assessments from all insurers as necessary to provide for expenses that have been incurred or are estimated to be incurred before receipt of the first calendar year assessments; [PL 2011, c. 90, Pt. B, §8 (NEW).]

D. Establish procedures for the handling and accounting of association assets; and [PL 2019, c. 653, Pt. B, §13 (AMD).]

E. [PL 2019, c. 653, Pt. B, §14 (RP).]

F. Provide for reinsurance for member insurers pursuant to section 3958. [PL 2011, c. 90, Pt. B, §8 (NEW).]

[PL 2019, c. 653, Pt. B, §§13, 14 (AMD).]

**2. Powers.** The association may:

A. Exercise powers granted to nonprofit corporations under the laws of this State; [PL 2011, c. 90, Pt. B, §8 (NEW).]

B. Enter into contracts as necessary or proper to carry out the provisions and purposes of this chapter and may, with the approval of the superintendent, enter into contracts with similar organizations of other states for the joint performance of common administrative functions or with persons or other organizations for the performance of administrative functions; [PL 2011, c. 90, Pt. B, §8 (NEW).]

C. Sue or be sued and may take legal actions necessary or proper to recover or collect assessments provided in section 3957 due the association; [PL 2011, c. 90, Pt. B, §8 (NEW).]

D. Take legal actions necessary to avoid the payment of improper claims against the association or the coverage provided by or through the association, to recover any amounts erroneously or improperly paid by the association, to recover amounts paid by the association as a result of mistake of fact or law or to recover other amounts due the association; [PL 2011, c. 90, Pt. B, §8 (NEW).]

E. Appoint appropriate legal, actuarial and other committees as necessary to provide technical assistance and any other function within the authority of the association; [PL 2011, c. 90, Pt. B, §8 (NEW).]

F. Borrow money to effect the purposes of the association. Notes or other evidence of indebtedness of the association not in default must be legal investments for insurers and may be carried as admitted assets; [PL 2011, c. 90, Pt. B, §8 (NEW).]

G. Provide for reinsurance of risks incurred by members of the association and purchase reinsurance retroceding those risks to the extent the board determines appropriate. The provision of reinsurance may not subject the association to any of the capital or surplus requirements, if any, otherwise applicable to reinsurers; and [PL 2011, c. 90, Pt. B, §8 (NEW).]

H. Accept and administer funds or grants from public or private sources, including federal grants, and apply for such funding. [PL 2019, c. 653, Pt. B, §15 (AMD).]

[PL 2019, c. 653, Pt. B, §15 (AMD).]

**3. Additional duties and powers.** The superintendent may, by rule, establish additional powers and duties of the board and may adopt such rules as are necessary and proper to implement this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2011, c. 90, Pt. B, §8 (NEW).]

**4. Review for solvency.** An annual review of the association for solvency must be performed by an independent certified public accountant using generally accepted accounting principles. The association shall submit the annual review to the superintendent. If the superintendent determines that the funds of the association are insufficient to support the need for reinsurance, the superintendent may order the association to increase its assessments. If the superintendent determines that the funds of the association are insufficient, the superintendent may order the association to charge additional assessments.

[PL 2011, c. 90, Pt. B, §8 (NEW).]

**5. Annual report.** The association shall report annually to the joint standing committee of the Legislature having jurisdiction over health insurance matters by March 15th. The report must include information on the financial solvency of the association and the administrative expenses of the association.

[PL 2011, c. 90, Pt. B, §8 (NEW).]

**6. Audit.** The association must be audited at least annually by an independent certified public auditor. A copy of the audit must be provided to the superintendent and to the joint standing committee of the Legislature having jurisdiction over health insurance matters.

[PL 2011, c. 90, Pt. B, §8 (NEW).]

#### SECTION HISTORY

PL 2011, c. 90, Pt. B, §8 (NEW). PL 2011, c. 621, §2 (AMD). PL 2019, c. 653, Pt. B, §§13-15 (AMD).

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