

508.31A Funding agreements.

1. A life insurance company organized under this chapter may issue funding agreements. The issuance of a funding agreement under this section is deemed to be doing insurance business. For purposes of this section, “*funding agreement*” means an agreement for an insurer to accept and accumulate funds and to make one or more payments at future dates in amounts that are not based on mortality or morbidity contingencies of the person to whom the funding agreement is issued. A funding agreement does not constitute life insurance, an annuity, or other insurance authorized by section 508.29, and does not constitute a security as defined in section 502.102.

2. *a.* Funding agreements may be issued to the following:

(1) A person authorized by a state or foreign country to engage in an insurance business or a subsidiary of such business.

(2) A person for the purpose of funding any of the following:

(a) Benefits under an employee benefit plan as defined in the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq., maintained in the United States or in a foreign country.

(b) Activities of an organization exempt from taxation pursuant to section 501(c) of the Internal Revenue Code, or any similar organization in any foreign country.

(c) A program of the United States government, another state government or political subdivision of such state, or of a foreign country, or any agency or instrumentality of any such government, political subdivision, or foreign country.

(d) An agreement providing for periodic payments in satisfaction of a claim.

(e) A program of an institution which has assets in excess of twenty-five million dollars.

(3) A person other than a natural person that has assets of at least twenty-five million dollars.

(4) A person other than a natural person for the purpose of providing collateral security for securities registered with the federal securities and exchange commission.

b. A funding agreement issued pursuant to paragraph “*a*”, subparagraph (1), (2), or (3), shall be for a total amount of not less than one million dollars.

c. An amount under a funding agreement shall not be guaranteed or credited except upon reasonable assumptions as to investment income and expenses and on a basis equitable to all holders of funding agreements of a given class. Such funding agreements shall not provide for payments to the insurer based on mortality or morbidity contingencies.

d. Amounts paid to the insurer pursuant to a funding agreement, and proceeds applied under optional modes of settlement, may be allocated by the insurer to one or more separate accounts pursuant to section 508A.1.

3. A funding agreement is a class 2 claim under section 507C.42, subsection 2.

4. The commissioner may adopt rules to implement funding agreements.

98 Acts, ch 1057, §4; 99 Acts, ch 3, §1, 2; 2002 Acts, ch 1111, §8; 2003 Acts, ch 91, §7; 2003 Acts, ch 179, §75; 2003 Acts, 1st Ex, ch 2, §28, 209; 2004 Acts, ch 1086, §86