

508C.3 Scope.

1. This chapter shall provide coverage under the policies and contracts specified in subsection 2 to all of the following:

a. Except for nonresident certificate holders under group policies or contracts, persons who are the beneficiaries, assignees, or payees of the persons covered under paragraph "b".

b. Persons who are owners of the policies or contracts specified in subsection 2, other than unallocated annuity contracts and structured settlement annuities, or are insureds or annuitants under the policies or contracts, and who are either of the following:

(1) Residents of this state.

(2) Nonresidents of this state if all of the following conditions are met:

(a) The state in which the person resides has an association similar to the association created in this chapter.

(b) The person is not eligible for coverage by an association described in subparagraph division (a) in any other state due to the fact that the insurer was not licensed in the state at the time specified in that state's guaranty association law.

(c) The insurer is domiciled in this state.

c. Persons who are the owners of unallocated annuity contracts if the contracts are issued to or in connection with a specific benefit plan whose plan sponsor has its principal place of business in this state.

d. (1) A payee, or the beneficiary of a payee if the payee is deceased, of a structured settlement annuity, if the payee or beneficiary of the structured settlement annuity is either of the following:

(a) The payee or beneficiary of the structured settlement annuity is a resident of this state regardless of where the owner of the structured settlement annuity resides.

(b) The payee or beneficiary of the structured settlement annuity is not a resident of this state and either of the following conditions is met:

(i) The owner of the structured settlement annuity is a resident of this state.

(ii) The owner of the structured settlement annuity is not a resident of this state and both of the following are applicable:

(A) The insurer that issued the structured settlement annuity is domiciled in this state.

(B) The state in which the owner of the structured settlement annuity resides has an association similar to the association created by this chapter.

(2) Subparagraph (1), subparagraph division (b) shall not be applicable if either the payee or beneficiary of the payee if the payee is deceased, or the owner of the structured settlement annuity is eligible for coverage by the association of the state in which the payee, beneficiary, or owner resides.

e. Coverage under this chapter shall not be provided to any of the following:

(1) A person who is a payee, or the beneficiary of a payee if the payee is deceased, of a contract owner who is a resident of this state, if the payee or the beneficiary of the payee is provided any coverage by the association of another state.

(2) A person who is covered pursuant to paragraph "c" if that person is provided any coverage by the association of another state.

f. Coverage under this chapter shall be provided to a person who is a resident of this state and, only in special circumstances, to a nonresident. In order to avoid duplicate coverage, if a person who would otherwise receive coverage under this chapter is provided coverage under the laws of any other state, that person shall not be provided coverage under this chapter. In determining the application of the provisions of this paragraph in situations where a person could be provided coverage by the association of more than one state, whether as an owner, payee, beneficiary, or assignee, this chapter shall be construed in conjunction with other state laws to result in coverage by the association of only one state.

2. This chapter shall provide coverage to the persons specified in subsection 1 under direct life insurance policies, health insurance policies including long-term care insurance and disability insurance policies, annuity contracts, supplemental contracts, certificates under group policies or contracts, and unallocated annuity contracts issued by member insurers.

3. This chapter does not apply to:

a. Any portion of a policy or contract to the extent that the rate of interest on which it is based or the interest rate, crediting rate, or similar factor determined by use of an index or other external reference stated in the policy or contract and employed in calculating returns or changes in value, averaged over the period of four years prior to the date on which the association becomes obligated with respect to the policy or contract, exceeds a rate of interest determined by subtracting two percentage points from Moody's corporate bond yield average for the same four-year period or over such lesser period if the policy or contract was issued less than four years before the association became obligated; and on or after the date on which the association becomes obligated with respect to the policy or contract, exceeds the rate of interest determined by subtracting three percentage points from Moody's corporate bond yield average as most recently available.

b. That portion or part of a policy or contract not guaranteed by the insurer, or under which the risk is borne by the policyholder.

c. A policy or contract or part of a policy or contract assumed by the impaired or insolvent insurer under a contract of reinsurance, other than reinsurance for which assumption certificates have been issued.

d. An unallocated annuity contract issued to an employee benefit plan protected under the federal pension benefit guaranty corporation regardless of whether the federal pension benefit guaranty corporation has yet become liable to make any payments with respect to the benefit plan, or a portion of an unallocated annuity contract which is not issued to or in connection with a specific employee, union, or association of natural persons, or any portion of a financial guaratee.

e. A policy or contract issued by a company which is licensed under chapter 509A, 512A, 512B, 514, 514B, 518, 518A, or 520.

f. Except for a policy issued pursuant to section 515.48, subsection 5, paragraph "a", a policy or contract issued by a company which is licensed under chapter 515.

g. A charitable gift annuity under chapter 508F.

h. An annuity contract issued to a government lottery.

i. A funding agreement under section 508.31A.

j. An obligation that does not arise under the express written terms of a covered policy or contract issued by the insurer to the policy or contract owner including without limitation all of the following:

(1) Claims based on marketing materials.

(2) Claims based on side letters, riders, or other documents that were issued by the insurer without meeting applicable policy form filing or approval requirements.

(3) Misrepresentation of or regarding policy benefits.

(4) Extra-contractual claims.

(5) Claims for penalties, consequential, or incidental damages.

k. A contractual agreement that establishes a member insurer's obligations to provide a book value accounting guaranty for defined contribution benefit plan participants by reference to a portfolio of assets that is owned by the benefit plan or its trustee, which in each case is not an affiliate of the member insurer.

l. A portion of a covered policy to the extent it provides for interest or other change in value to be determined by the use of an index or other external reference stated in the covered policy, but which has not been credited to the covered policy, or as to which the covered policy owner's rights are subject to forfeiture, as of the date the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier. If a covered policy's interest or change in value is credited less frequently than annually, then for purposes of determining the values that have been credited and are not subject to forfeiture under the covered policy, the interest or change in value determined by using the procedures defined in the covered policy will be credited as if the contractual date of crediting interest or changing values was the date of impairment or insolvency, whichever is earlier, and will not be subject to forfeiture.

m. A policy or contract issued in this state by a member insurer at a time the insurer was not licensed or did not have a certificate of authority to issue the policy or contract in this state.

n. A portion of a policy or contract issued to a plan or program of an employer, association, or other person to provide life, health, or annuity benefits to employees, members, or others, to the extent that the plan or program is self-funded or uninsured, including but not limited to benefits payable by an employer, association, or other person under any of the following:

(1) A multiple employer welfare arrangement as defined in section 3 of the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002, paragraph 40.

(2) A minimum premium group insurance plan.

(3) A stop-loss group insurance plan.

(4) An administrative services-only contract.

o. A portion of a policy or contract to the extent that it provides for any of the following:

(1) Dividends of experience rating credits.

(2) Voting rights.

(3) Payment of any fees or allowances to any person, including the policy or contract owner, in connection with service to or administration of the policy or contract.

p. A portion of a policy or contract to the extent that the assessments authorized by section 508C.9 with respect to the policy or contract are preempted by federal or state law.

q. A policy or contract providing any hospital, medical, prescription drug, or other health care benefits pursuant to 42 U.S.C. ch. 7, subch. XVIII, Part C or Part D, commonly known as Medicare Part C and D pursuant to Tit. XVIII of the federal Social Security Act, or any regulations issued pursuant thereto.

4. In performing its obligations to provide coverage under this chapter, the association shall not be required to guarantee, assume, reinsure, or perform, or cause to be guaranteed, assumed, reinsured, or performed, the contractual obligations of an insolvent or impaired insurer under a covered policy or contract that do not materially affect the economic values or economic benefits of the covered policy or contract.

87 Acts, ch 223, §3; 88 Acts, ch 1135, §1 – 3; 89 Acts, ch 83, §67; 92 Acts, ch 1162, §6, 7; 98 Acts, ch 1057, §6; 2000 Acts, ch 1023, §13; 2008 Acts, ch 1123, §14; 2010 Acts, ch 1063, §1 – 7; 2010 Acts, ch 1193, §60

Subsection 1, paragraph b amended

Subsection 1, NEW paragraphs c through f

Subsection 3, paragraphs a, b, and d amended

Subsection 3, paragraph g stricken and rewritten

Subsection 3, paragraph j amended

Subsection 3, NEW paragraphs m through q

NEW subsection 4