

## CHAPTER 508D

### MULTISTATE LIFE AND HEALTH INSURANCE RESOLUTION FACILITY

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#### 508D.1 Title.

This chapter shall be cited as the “*Multistate Life and Health Insurance Resolution Facility Act*”.

94 Acts, ch 1011, §1

#### 508D.2 Purpose.

The purpose of this chapter is to authorize the formation of an entity by one or more state life and health insurance guaranty associations for the purpose of administering and disposing of the business of impaired or insolvent insurance companies assumed by or assigned to the entity by its member guaranty associations, or by impaired or insolvent insurers through the impaired or insolvent insurer’s duly appointed receiver, liquidator, or rehabilitator, and to establish the conditions under which such an entity shall do business.

94 Acts, ch 1011, §2

#### 508D.3 Definitions.

As used in this chapter, unless the context otherwise requires:

1. “*Facility*” means the multistate life and health insurance resolution facility created pursuant to section 508D.4 as a legal entity domiciled in Iowa with its principal place of business and other business offices either within or without the state of Iowa as the board of directors may designate or as the business of the entity may require and established for the purpose set out in section 508D.2.

2. “*Member guaranty association*” means the Iowa life and health insurance guaranty association created pursuant to chapter 508C or any other state life and health insurance guaranty association which is or becomes a member of the facility pursuant to the plan of operation.

3. “*Oversight organization*” means the Iowa commissioner of insurance and the state insurance commissioner, or other state official charged with the responsibility of regulating the insurance industry in the same or similar manner as the Iowa commissioner of insurance, from the state of domicile of each member guaranty association.

94 Acts, ch 1011, §3

#### 508D.4 Facility established.

The facility may be created by one or more life and health insurance guaranty associations for the purpose set out in section 508D.2. The name of the facility shall be the multistate life and health insurance resolution facility. A life and health insurance guaranty association or other entity as approved by the board may elect to become a member of the association. The facility shall perform its functions under a plan of operation established and approved under section 508D.7 and shall exercise its powers through a board of directors established under section 508D.5. Only one facility shall be established pursuant to this chapter.

94 Acts, ch 1011, §4

#### 508D.5 Board of directors.

1. The members of the board of directors shall be selected by the member guaranty associations. The number of members of the board and their terms shall be established in the plan of operation. Vacancies on the board shall be filled for the remaining period of the term by a majority vote of the remaining board members. In determining voting rights, each member guaranty association shall be entitled to one vote in person or by proxy.

2. The initial board of directors of the facility shall be established by the Iowa life and health insurance guaranty association and shall consist of not less than five nor more than nine members. The initial board of directors shall adopt a plan of operation for the facility as provided in section 508D.7.

3. Members of the board of directors are entitled to reasonable compensation for expenses incurred in attending meetings of the board or while on business conducted on behalf of the facility. Members of the board may also be compensated by the facility for their services provided as members of the board as provided in the plan of operation.

94 Acts, ch 1011, §5

#### **508D.6 Powers and duties of the facility.**

1. The facility shall perform those duties of the member guaranty associations which are delegated to the facility as permitted under the enabling legislation of each member guaranty association and which are consistent with the plan of operation.

2. Except as otherwise provided in this chapter, the facility is granted specific authority to exercise the powers of a domestic life or health insurer.

3. The facility is not authorized to solicit, advertise, market, sell, underwrite, issue, insure, administer, or reinsure new insurance business or insurance business of insurance companies which are not impaired or insolvent according to the laws of their state of domicile.

4. The board of directors of the facility may enter into agreements with any interstate compact organization established for the purpose of administering impaired or insolvent insurance companies in this or any other state.

5. An activity involving the authority of the facility derived from chapter 507C or other law related to insurer supervision, rehabilitation, and liquidation shall be performed in compliance with the requirements of such law.

6. The facility established under this chapter is not subject to any insurance licensing requirements and an employee of the facility is not subject to any insurance licensing requirements for activities performed within the employee's scope of duties. All regulatory oversight of the facility shall be conducted by the oversight organization.

94 Acts, ch 1011, §6

#### **508D.7 Plan of operation.**

1. The facility shall submit to the oversight organization a plan of operation and any amendments to the plan of operation necessary or suitable to assure the fair, reasonable, and equitable administration of the facility's business. The plan of operation and any amendments to the plan are effective upon the oversight organization's written approval.

2. The plan of operation, in addition to other requirements established in this chapter, shall establish all of the following:

- a. Procedures for administering the assets under the control of the facility.
- b. Regular places and times for meetings of the board of directors.
- c. Procedures for records to be kept of all financial transactions engaged in by the facility, the agents of the facility, and the board of directors.
- d. Procedures for selecting the board of directors and submitting the selections to the oversight organization.
- e. Procedures for permitting life and health insurance guaranty associations to become members of the facility.
- f. Procedures for the assumption of the insurance business or the assignment of the insurance business to the facility by member guaranty associations.
- g. Procedures for determining and making assessments against member guaranty associations by the board of directors.
- h. Additional provisions necessary and proper for the execution of the powers and duties of the facility.
- i. A description of staffing requirements and qualifications for positions within the facility.

3. The plan of operation may provide that any powers and duties of the facility, except the power to borrow money and the power to make assessments, may be delegated to a corporation, association, or other organization or individual which performs or will perform

those functions. Such corporation, association, or other organization or individual shall be reimbursed for any payments made on behalf of the facility and shall be compensated for the performance of any permissible function, as directed by the facility. A delegation of any power or duty pursuant to this subsection takes effect only with the approval of the board of directors.

94 Acts, ch 1011, §7

#### **508D.8 Costs and assessments.**

1. Costs of administration shall be recorded separately for each impaired or insolvent company and those costs shall be reimbursed from the assets of such company.

2. The board of directors of the facility shall assess the member guaranty associations at the time and for the amounts the board finds necessary to reimburse the facility for any additional costs not reimbursed from assets managed by the facility. Assessments made pursuant to this subsection shall be allocated among member guaranty associations pursuant to a formula adopted by the board and consistent with each individual guaranty association's liability for the facility's insurance business which is the subject of the assessment. An assessment is due not less than ninety days after prior written notice has been sent to the member guaranty association and accrues interest at ten percent per annum commencing on the due date.

3. The total of all assessments upon a member guaranty association shall not exceed in any one calendar year the limit set by the enabling legislation of the member guaranty association's state of domicile for assessments against insurance companies. If a maximum assessment in any one year does not provide an amount sufficient to carry out the responsibilities of the facility, the necessary additional funds shall be assessed in succeeding years as soon as permitted by this chapter and by the enabling legislation of the member guaranty association's state of domicile.

4. Notwithstanding subsection 3, the Iowa life and health insurance guaranty association shall levy additional assessments not to exceed one hundred dollars per company per year if necessary to fund organizational expenses of the facility.

94 Acts, ch 1011, §8

#### **508D.9 Miscellaneous provisions.**

1. Records shall be kept of all negotiations and meetings in which the facility or the facility's representatives are involved to discuss the activities of the facility in carrying out the powers and duties set out under section 508D.6. Records of negotiations or meetings shall be made public pursuant to chapter 22 only upon the termination of a liquidation, rehabilitation, or conservation proceeding involving the impaired or insolvent insurance company whose business was assumed by or assigned to the facility, upon the termination of the impairment or insolvency of the insurance company, or upon the order of a court of competent jurisdiction. This subsection does not limit the duty of the association to render a report of its activities under subsection 2.

2. The facility is subject to examination and regulation by the oversight organization. The board of directors shall submit to the oversight organization by June 1 of each year a financial report for the preceding calendar year and a report of its activities during the preceding calendar year. The financial report shall be in a form approved by the oversight organization.

3. The facility is exempt from payment of all fees and taxes levied by this state or any of its subdivisions on insurance companies, except taxes levied on the real property of the facility.

4. A member guaranty association and its agents and employees, the facility and its agents and employees, members of the board of directors, and the oversight organization and its representatives are not liable for any acts or omissions while acting within the scope of their employment and in the performance of their powers and duties under this chapter, except for acts or omissions not in good faith which involve intentional misconduct or which involve a knowing violation of law.

94 Acts, ch 1011, §9