

508C.3 Scope.

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

a. Persons, regardless of where they reside, except for nonresident certificate holders under group policies or contracts, who are the beneficiaries, assignees, or payees, including health care providers rendering services covered under health insurance policies, contracts, or certificates, of the persons covered under paragraph “b”.

b. Persons who are owners of or certificate holders or enrollees under the policies or contracts specified in **subsection 2**, other than unallocated annuity contracts and structured settlement annuities, or are enrollees, 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 or the health maintenance organization was not licensed in the state at the time specified in that state’s guaranty association law.

(c) The member insurer that issued the policy or contract 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. 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 a situation where a person could be provided coverage by the association of more than one state, whether as an owner, payee, enrollee, 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 policies or contracts of direct life insurance, health insurance, or annuities, supplemental contracts, certificates under group policies or contracts, and unallocated annuity contracts issued by member insurers. For purposes of **this chapter**, health insurance shall include without limitation health maintenance organization subscriber contracts and certificates, long-term care insurance, and disability insurance policies.

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

a. A person who is a payee, or a 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.

b. A person who is covered pursuant to [subsection 1](#), paragraph “c”, if that person is provided any coverage by the association of another state.

c. A person who acquires rights to receive payments through a structured settlement factoring transaction as defined in 26 U.S.C. §5891(c)(3)(A), regardless of when the transaction occurred.

4. [This chapter](#) does not apply to any of the following:

a. Except for a portion of a policy or contract, including a rider, that provides coverage for long-term care or any health insurance benefits, 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 member insurer, or under which the risk is borne by the policy or contract holder.

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 or in connection with 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.

e. 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 guarantee.

f. A policy or contract issued by a company which is licensed under [chapter 509A](#), [512A](#), [512B](#), [514](#), [518](#), [518A](#), or [520](#), or under [section 514B.33](#).

g. 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](#).

h. A charitable gift annuity under [chapter 508F](#).

i. An annuity contract issued to a government lottery.

j. A funding agreement under [section 508.31A](#).

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

(1) A claim based on marketing materials.

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

(3) A claim based on misrepresentation of or misrepresentation regarding policy or contract benefits.

(4) An extra-contractual claim.

(5) A claim for penalties, consequential, or incidental damages.

l. 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.

m. A portion of a covered policy to the extent it provides for interest or other changes

in value to be determined by the use of an index or other external reference stated in the covered policy, but which have 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 changes in value are 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 the crediting interest or changing value shall not be subject to forfeiture.

n. 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.

o. 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.

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

(1) Dividends or 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.

q. 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.

r. A policy or contract providing any hospital, medical, prescription drug, or other health care benefits pursuant to any of the following:

(1) 42 U.S.C. ch. 7, subch. XVIII, Part C or Part D, commonly known as Medicare Part C and D, or any regulations issued pursuant thereto.

(2) 42 U.S.C. ch. 7, subch. XIX, commonly known as Medicaid, or any regulations issued pursuant thereto.

s. Structured settlement annuity benefits to which a payee or beneficiary has transferred the payee's or beneficiary's rights in a structured settlement factoring transaction as defined in 26 U.S.C. §5891(c)(3)(A).

5. a. The benefits that the association may become obligated to cover shall in no event exceed the lesser of either of the following:

(1) The contractual obligations for which the member insurer is liable or would have been liable if the member insurer were not an impaired or insolvent insurer.

(2) Any of the following:

(a) With respect to one life, regardless of the number of policies or contracts:

(i) Three hundred thousand dollars in life insurance death benefits, but not more than one hundred thousand dollars in net cash surrender and net cash withdrawal values for life insurance.

(ii) Five hundred thousand dollars for health benefit plans; three hundred thousand dollars for health insurance benefits which are disability income protection coverage as defined by the commissioner by rule pursuant to [section 514D.4](#); three hundred thousand dollars for long-term care insurance as defined in [section 514G.103](#); or one hundred thousand dollars for other health insurance benefits including any net cash surrender and net cash withdrawal values.

(iii) Two hundred fifty thousand dollars in the present value of annuity benefits, including net cash surrender and net cash withdrawal values.

(iv) With respect to each payee of a structured settlement annuity, or the beneficiary or

beneficiaries of the payee if the payee is deceased, two hundred fifty thousand dollars in present value annuity benefits, in the aggregate, including net cash surrender and net cash withdrawal values.

(b) (i) With respect to each individual participating in a retirement benefit plan established under section 401, 403(b), or 457 of the United States Internal Revenue Code, or each unallocated annuity contract account, excluding a plan established under section 401, 403(b), or 457 of the United States Internal Revenue Code, not more than two hundred fifty thousand dollars in the aggregate, in present value annuity benefits, including net cash surrender and net cash withdrawal values for the beneficiaries of the deceased individual.

(ii) However, the association shall not in any event be obligated to cover more than an aggregate of three hundred fifty thousand dollars in benefits with respect to any one life under subparagraph division (a) and this subparagraph division (b), except with respect to benefits for health benefit plans under subparagraph division (a), subparagraph subdivision (ii), in which case the aggregate liability of the association shall not exceed five hundred thousand dollars with respect to any one individual, or more than five million dollars in benefits to one owner of multiple nongroup policies of life insurance regardless of whether the policy or contract owner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons, and regardless of the number of policies and contracts held by the owner.

(c) With respect to a plan sponsor whose plan owns, directly or in trust, one or more unallocated annuity contracts not included under subparagraph division (b), not more than five million dollars in benefits, regardless of the number of contracts held by the plan sponsor. However, where one or more such unallocated annuity contracts are covered contracts under [this chapter](#) and are owned by a trust or other entity for the benefit of two or more plan sponsors, the association shall provide coverage if the largest interest in the trust or entity owning the contract is held by a plan sponsor whose principal place of business is in the state but in no event shall the association be obligated to cover more than five million dollars in benefits in the aggregate with respect to all such unallocated contracts.

b. The limitations on the association's obligation to cover benefits that are set forth under [this subsection](#) do not take into account the association's subrogation and assignment rights or the extent to which such benefits could be provided out of the assets of the impaired or insolvent insurer attributable to covered policies. The cost of the association's obligations under [this chapter](#) may be met by the use of assets attributable to covered policies or reimbursed to the association pursuant to the association's subrogation and assignment rights.

c. For purposes of [this chapter](#), benefits provided by a long-term care rider to a life insurance policy or annuity contract shall be considered the same type of benefits as the base life insurance policy or annuity contract to which the long-term rider relates.

6. In performing its obligations to provide coverage under [this chapter](#), the association shall not be required to guarantee, assume, reinsure, reissue, or perform, or cause to be guaranteed, assumed, reinsured, reissued, 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; 2014 Acts, ch 1092, §111 – 114; 2019 Acts, ch 12, §3 – 6, 35, 36

Referred to in §508C.2, 508C.5, 508C.8

2019 amendments apply beginning March 29, 2019; 2019 Acts, ch 12, §35, 36

Section amended