

THE INSURANCE CODE OF 1956 (EXCERPT)
Act 218 of 1956

500.7705 Definitions.

Sec. 7705. As used in this chapter:

- (a) "Account" means either of the 2 accounts created under section 7706.
- (b) "Association" means the Michigan life and health insurance guaranty association created under section 7706.
- (c) "Authorized assessment" or "authorized" when used in the context of assessments means a resolution or motion passed by the association's board of directors that directs that an assessment be called immediately or in the future from member insurers for a specific amount. An assessment is authorized when the resolution or motion is passed.
- (d) "Benefit plan" means a specific employee, union, or association of natural persons benefit plan.
- (e) "Called assessment" or "called" when used in the context of assessments means that a notice has been issued by the association to member insurers requiring that an authorized assessment be paid within the time frame set forth within the notice. An authorized assessment becomes a called assessment when notice is mailed by the association to member insurers.
- (f) "Contractual obligation" means an obligation under covered policies.
- (g) "Covered policy" means a policy, contract, or certificate under a group policy or contract, or portion of a group policy or contract, for which coverage is provided under section 7704.
- (h) "Health insurance" means disability insurance as described in section 606.
- (i) "Impaired insurer" means a member insurer considered by the director to be potentially unable to fulfill the insurer's contractual obligations or that is placed under an order of rehabilitation or conservation by a court of competent jurisdiction. Impaired insurer does not mean an insolvent insurer.
- (j) "Insolvent insurer" means a member insurer that becomes insolvent and is placed under an order of liquidation by a court of competent jurisdiction with a finding of insolvency.
- (k) "Member insurer" means a person authorized to transact a kind of insurance or annuity business in this state for which coverage is provided under section 7704 and includes an insurer whose certificate of authority in this state may have been suspended, revoked, not renewed, or voluntarily withdrawn. Member insurer does not include the following:
 - (i) A fraternal benefit society.
 - (ii) A cooperative plan insurer authorized under chapter 64.
 - (iii) A health maintenance organization authorized or licensed under chapter 35.
 - (iv) A mandatory state pooling plan.
 - (v) A mutual assessment or any person that operates on an assessment basis.
 - (vi) A nonprofit dental care corporation operating under 1963 PA 125, MCL 550.351 to 550.373.
 - (vii) An insurance exchange.
 - (viii) An organization that has a certificate or license limited to the issuance of charitable gift annuities.
 - (ix) Any entity similar to the entities described in this subdivision.
- (l) "Moody's corporate bond yield average" means the monthly average corporates as published by Moody's Investors Service, Inc., or a successor to that service.
- (m) "Owner" of a contract or policy and "contract owner" and "policy owner" mean the person who is identified as the legal owner under the terms of the contract or policy or who is otherwise vested with the legal title to the contract or policy through a valid assignment completed in accordance with the terms of the contract or policy and properly recorded as the owner on the books of the insurer. The terms owner, contract owner, and policy owner do not include persons with a mere beneficial interest in a contract or policy.
- (n) "Person" means an individual, corporation, partnership, association, or voluntary organization.
- (o) "Plan sponsor" means the following:
 - (i) For a benefit plan established or maintained by a single employer, the single employer.
 - (ii) For a benefit plan established or maintained by an employee organization, the employee or organization.
 - (iii) For a benefit plan established or maintained by 2 or more employers or jointly by 1 or more employers and 1 or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan.
- (p) "Premiums" means amounts or considerations, by whatever name called, received on covered policies or contracts less returned premiums, considerations, and deposits and less dividends and experience credits. The term "premiums" does not include an amount or consideration received for a policy or contract, or a portion of a policy or contract for which coverage is not provided under section 7704. However, accessible

premiums must not be reduced because of sections 7704(5)(c) relating to interest limitations and 7704(6)(b), (c), and (e) relating to limitations with respect to any 1 individual, any 1 participant, and any 1 contract holder. Premiums do not include premiums in excess of the following:

(i) \$5,000,000.00 on an unallocated annuity contract not issued under a governmental retirement plan established under section 401(k), 403(b), or 457 of the internal revenue code of 1986, 26 USC 401, 403, and 457.

(ii) For multiple nongroup policies of life insurance owned by 1 owner, whether the policyowner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons, \$5,000,000.00 with respect to these policies or contracts, regardless of the number of policies or contracts held by the owner.

(q) "Principal place of business" of a plan sponsor or a person other than a natural person means the state in which the natural persons who establish policy for the direction, control, and coordination of the entity as a whole primarily exercise that function. In making this determination, the association, in its reasonable judgment, shall consider all of the following factors:

(i) The state in which the primary executive and administrative headquarters of the entity is located.

(ii) The state in which the principal office of the chief executive officer of the entity is located.

(iii) The state in which the board of directors, or the entity's similar governing person or persons, conducts the majority of its meetings.

(iv) The state in which the executive or management committee of the board of directors, or the entity's similar governing person or persons, conducts the majority of its meetings.

(v) The state from which the management of the overall operations of the entity is directed.

(vi) For a benefit plan sponsored by affiliated companies comprising a consolidated corporation, the state in which the holding company or controlling affiliate has its principal place of business as determined using subparagraphs (i) to (v). However, for a plan sponsor, if more than 50% of the participants in the benefit plan are employed in a single state, that state is the principal place of business of the plan sponsor.

(vii) For a plan sponsor of a benefit plan, the principal place of business of the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan is based on the location of the principal place of business of the employer or employee organization that has the largest investment in the benefit plan instead of a specific or clear designation of a principal place of business.

(r) "Receivership court" means the court in the insolvent insurer's or impaired insurer's state having jurisdiction over the conservation, rehabilitation, or liquidation of the insurer.

(s) "Resident" means a person who resides in this state at the time a member insurer is determined to be an impaired insurer or insolvent insurer and to whom contractual obligations are owed. A person may be considered a resident of only 1 state, which, for a person other than a natural person, is its principal place of business. Citizens of the United States who are either residents of foreign countries or residents of the United States possessions, territories, or protectorates that do not have an association similar to the association created by this chapter are considered residents of this state if the insurer that issued the policies or contracts is domiciled in this state.

(t) "State" means a state, the District of Columbia, Puerto Rico, or a United States possession, territory, or protectorate.

(u) "Structured settlement annuity" means an annuity purchased in order to fund periodic payments for a plaintiff or other claimant in payment for or with respect to personal injury suffered by the plaintiff or other claimant.

(v) "Supplemental contract" means a written agreement entered into for the distribution of proceeds under a life, health, or annuity policy or contract.

(w) "Unallocated annuity contract" means an annuity contract or group annuity certificate that is not issued to and owned by an individual, except to the extent of an annuity benefit guaranteed to an individual by an insurer under the contract or certificate. Unallocated annuity contract includes, but is not limited to, a guaranteed investment contract or a deposit administration contract.

History: Add. 1982, Act 194, Imd. Eff. June 28, 1982;—Am. 1982, Act 501, Imd. Eff. Dec. 31, 1982;—Am. 1989, Act 302, Imd. Eff. Jan. 3, 1990;—Am. 1996, Act 548, Imd. Eff. Jan. 15, 1997;—Am. 2006, Act 671, Imd. Eff. Jan. 10, 2007;—Am. 2016, Act 276, Imd. Eff. July 1, 2016.

Compiler's note: Enacting section 1(1) of Act 671 of 2006 provides:

"Enacting section 1. (1) Sections 7702, 7704, 7705, 7706, 7707, 7708, 7709, 7711, 7712, 7714, and 7717 of the insurance code of 1956, 1956 PA 218, MCL 500.7702, 500.7704, 500.7705, 500.7706, 500.7707, 500.7708, 500.7709, 500.7711, 500.7712, 500.7714, and 500.7717, as amended by this amendatory act, apply to an insurer impairment or insurer insolvency proceeding commenced on or after the effective date of this amendatory act for which guaranty association coverage obligations are incurred."

Popular name: Act 218