

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 182, As Amended

BY STATE AFFAIRS COMMITTEE

AN ACT

1
2 RELATING TO INSURANCE; AMENDING SECTION 41-4305, IDAHO CODE, TO EXCLUDE CON-
3 SUMER OPERATED AND ORIENTED HEALTH PLANS FROM GUARANTY ASSOCIATION COV-
4 ERAGE.

5 Be It Enacted by the Legislature of the State of Idaho:

6 SECTION 1. That Section 41-4305, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 41-4305. DEFINITIONS. As used in this chapter:

9 (1) "Account" means any of the three (3) accounts maintained pursuant
10 to section 41-4306, Idaho Code.

11 (2) "Association" means the Idaho life and health insurance guaranty
12 association.

13 (3) "Authorized assessment" or "authorized," when used in the context
14 of assessments, means a resolution by the board of directors has been passed
15 whereby an assessment will be called immediately or in the future from member
16 insurers for a specified amount. An assessment is authorized when the reso-
17 lution is passed.

18 (4) "Benefit plan" means a specific employee, union or association of
19 natural persons benefit plan.

20 (5) "Called assessment" or "called," when used in the context of as-
21 sessments, means that a notice has been issued by the association to mem-
22 ber insurers requiring that an authorized assessment be paid within the time
23 frame set forth within the notice. An authorized assessment becomes a called
24 assessment when notice is mailed by the association to member insurers.

25 (6) "Contractual obligation" means an obligation under a policy or con-
26 tract or certificate under a group policy or contract, or portion thereof for
27 which coverage is provided under section 41-4303, Idaho Code.

28 (7) "Covered policy" means a policy or contract or portion of a pol-
29 icy or contract for which coverage is provided under section 41-4303, Idaho
30 Code.

31 (8) "Director" means the director of the Idaho department of insurance.

32 (9) "Extra-contractual claims" shall include, for example, claims re-
33 lating to bad faith in the payment of claims, punitive or exemplary damages
34 or attorney's fees and costs.

35 (10) "Impaired insurer" means a member insurer:

36 (a) Deemed by the director after the effective date of this chapter to
37 be potentially unable to fulfill its contractual obligations and not an
38 insolvent insurer; or

39 (b) Which, after the effective date of this chapter, is not an insol-
40 vent insurer and is placed under an order of rehabilitation or conserva-
41 tion by a court of competent jurisdiction.

1 (11) "Insolvent insurer" means a member insurer which, after the effec-
 2 tive date of this chapter, is placed under an order of liquidation by a court
 3 of competent jurisdiction with a finding of insolvency.

4 (12) (a) "Major medical insurance" means, solely for purposes of this
 5 chapter, health insurance policies, contracts or certificates that are
 6 issued to provide hospital and medical-surgical coverage.

7 (b) "Major medical insurance" shall not include insurance policies,
 8 contracts or certificates:

- 9 (i) Issued by an insurer providing only accident-only, credit,
 10 dental, vision, long-term care or disability income insurance or
 11 specified disease or hospital confinement indemnity insurance; or
 12 (ii) For medicare supplement insurance or for coverage supplement-
 13 tal to the coverage provided under the civilian health and medical
 14 program of the uniformed services (CHAMPUS).

15 (13) (a) "Member insurer" means an insurer licensed or that holds a
 16 certificate of authority to transact in this state any kind of insur-
 17 ance for which coverage is provided under section 41-4303, Idaho Code,
 18 and includes an insurer whose license or certificate of authority in
 19 this state may have been suspended, revoked, not renewed or voluntarily
 20 withdrawn.

21 (b) "Member insurer" does not include:

- 22 (i) A hospital or medical service corporation or organization,
 23 whether profit or nonprofit;
 24 (ii) A fraternal benefit society;
 25 (iii) A mandatory state pooling plan;
 26 (iv) A mutual assessment company or other person that operates on
 27 an assessment basis;
 28 (v) An insurance exchange;
 29 (vi) An organization that issues charitable gift annuities under
 30 section 41-120, Idaho Code;
 31 (vii) A mutual benefit association;
 32 (viii) A reciprocal insurer;
 33 (ix) A limited managed care plan; ~~or~~
 34 (x) A self-funded health care plan; or
 35 (xi) A consumer operated and oriented plan established under sec-
 36 tion 1322 of the patient protection and affordable care act, P.L.
 37 111-148.

38 (14) "Moody's corporate bond yield average" means the monthly average
 39 corporates as published by Moody's investors service, inc., or any successor
 40 thereto.

41 (15) "Owner," "policy owner" or "contract owner" means the person who is
 42 identified as the legal owner under the terms of the policy or contract or
 43 who is otherwise vested with legal title to the policy or contract through
 44 a valid assignment completed in accordance with the terms of the policy or
 45 contract and properly recorded as the owner on the books of the insurer. The
 46 terms owner, contract owner and policy owner do not include persons with a
 47 mere beneficial interest in a policy or contract.

48 (16) "Person" means an individual, corporation, limited liability com-
 49 pany, partnership, association, governmental body or entity or voluntary
 50 organization.

1 (17) (a) "Premiums" means amounts or considerations, by whatever name
2 called, received on covered policies or contracts less returned pre-
3 miums, considerations and deposits and less dividends and experience
4 credits.

5 (b) "Premiums" does not include amounts or considerations received for
6 policies or contracts or for the portions of policies or contracts for
7 which coverage is not provided under section 41-4303(2), Idaho Code,
8 except that assessable premium shall not be reduced on account of sec-
9 tion 41-4303(2) (b) (iii), Idaho Code, relating to interest limitations
10 and section 41-4303(3) (b), (c) and (d), Idaho Code, relating to limi-
11 tations with respect to one (1) individual, one (1) participant and one
12 (1) contract owner. "Premiums" shall not include:

13 (i) Premiums on an unallocated annuity contract; or

14 (ii) With respect to multiple non-group policies of life insur-
15 ance owned by one (1) owner, whether the policy owner is an indi-
16 vidual, firm, corporation or other person, and whether the persons
17 insured are officers, managers, employees or other persons, pre-
18 miums in excess of five million dollars (\$5,000,000) with respect
19 to these policies or contracts, regardless of the number of poli-
20 cies or contracts held by the owner.

21 (18) (a) "Principal place of business" of a plan sponsor or a person
22 other than a natural person means the single state in which the natural
23 persons who establish policy for the direction, control and coordina-
24 tion of the operations of the entity as a whole primarily exercise that
25 function, determined by the association in its reasonable judgment by
26 considering the following factors:

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

29 (ii) The state in which the principal office of the chief execu-
30 tive officer of the entity is located;

31 (iii) The state in which the board of directors, or similar govern-
32 ing person or persons, of the entity conducts the majority of its
33 meetings;

34 (iv) The state in which the executive or management committee of
35 the board of directors, or similar governing person or persons, of
36 the entity conducts the majority of its meetings;

37 (v) The state from which the management of the overall operations
38 of the entity is directed; and

39 (vi) In the case of a benefit plan sponsored by affiliated compa-
40 nies comprising a consolidated corporation, the state in which the
41 holding company or controlling affiliate has its principal place
42 of business as determined using the factors contained in subpara-
43 graphs (i) through (v) of this paragraph.

44 However, in the case of a plan sponsor, if more than fifty percent (50%)
45 of the participants in the benefit plan are employed in a single state,
46 that state shall be deemed to be the principal place of business of the
47 plan sponsor.

48 (b) "Principal place of business" of a plan sponsor of a benefit plan
49 shall be deemed to be the principal place of business of the associa-
50 tion, committee, joint board of trustees or other similar group of rep-

1 representatives of the parties who establish or maintain the benefit plan
2 that, in lieu of a specific or clear designation of a principal place
3 of business, shall be deemed to be the principal place of business of
4 the employer or employee organization that has the largest investment
5 in the benefit plan in question.

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

9 (20) "Resident" means a person to whom a contractual obligation is owed
10 and who resides in this state on the date of entry of a court order that de-
11 termines a member insurer to be an impaired insurer or a court order that
12 determines a member insurer to be an insolvent insurer. A person may be a
13 resident of only one (1) state, which in the case of a person other than a
14 natural person shall be its principal place of business. Citizens of the
15 United States that are either (a) residents of foreign countries, or (b) res-
16 idents of United States possessions, territories or protectorates that do
17 not have an association similar to the association created in this chapter,
18 shall be deemed residents of the state of domicile of the insurer that issued
19 the policies or contracts.

20 (21) "State" means a state or a commonwealth of the United States, the
21 District of Columbia, Puerto Rico, and a United States possession, territory
22 or protectorate.

23 (22) "Structured settlement annuity" means an annuity purchased in or-
24 der to fund periodic payments for a plaintiff or other claimant in payment
25 for or with respect to personal injury suffered by the plaintiff or other
26 claimant.

27 (23) "Supplemental contract" means a written agreement entered into for
28 the distribution of proceeds under a life, health or annuity policy or con-
29 tract.

30 (24) "Unallocated annuity contract" means an annuity contract or group
31 annuity certificate which is not issued to and owned by an individual, except
32 to the extent of any annuity benefits guaranteed to an individual by an in-
33 surer under the contract or certificate.