

Article - Insurance

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§1-101.

(a) In this article the following words have the meanings indicated.

(b) “Administration” means the Maryland Insurance Administration.

(b-1) “Affordable Care Act” means the federal Patient Protection and Affordable Care Act, as amended by the federal Health Care and Education Reconciliation Act of 2010, and any regulations adopted or guidance issued under the Acts.

(c) “Alien insurer” means an insurer that is formed under the laws of a jurisdiction other than the United States or a state.

(d) (1) “Annuity” means an agreement to make periodic payments for which the making or continuance of all or some of a series of the payments, or the amount of a payment, depends on the continuance of a human life.

(2) “Annuity” includes:

(i) an additional benefit that operates to safeguard the contract from lapse or to provide a special surrender value, special benefit, or annuity in the event of the total and permanent disability of the holder; and

(ii) benefits that provide payment or reimbursement for long-term home health care or long-term care in a nursing home or other related institution.

(3) “Annuity” does not include life insurance.

(e) “Annuity contract” means a contract that provides for an annuity.

(f) “Appointment” means an agreement between an insurance producer and insurer under which the insurance producer, for compensation, may sell, solicit, or negotiate policies issued by the insurer.

(g) “Authorized insurer” means an insurer that holds a valid certificate of authority.

(h) “Burial insurance” includes any kind of agreement, certificate, policy, contract, bond, assurance guarantee, or other arrangement, by bylaw, regulation, or otherwise, in or by which the party that issues the certificate, policy, contract, bond, assurance guarantee, or other arrangement agrees to:

(1) provide for the burial of a named or designated deceased individual;

(2) save harmless anyone for all or part of the costs of the burial of a named

or designated deceased individual; or

(3) pay all or part of the incidents of the burial of a named or designated deceased individual.

(i) (1) “Casualty insurance” means:

(i) insurance against legal, contractual, or assumed liability for death, injury, or disability of a human being, or for damage to property;

(ii) if issued as an incidental coverage with or supplemental to liability insurance and regardless of legal liability of the insured, insurance that provides medical, hospital, or surgical disability benefits to injured individuals and funeral and death benefits to dependents, beneficiaries, or personal representatives of individuals killed; or

(iii) unless disapproved by the Commissioner as contrary to law or public policy, insurance against any other kind of loss, damage, or liability that is properly a subject of insurance and not within any other kind of insurance described in this subsection.

(2) “Casualty insurance” includes motor vehicle physical damage insurance, burglary and theft insurance, glass insurance, workers’ compensation insurance, employer’s liability insurance, and boiler and machinery insurance.

(j) “Certificate of authority” means a certificate issued by the Commissioner to engage in the insurance business.

(k) “Commissioner” means the Maryland Insurance Commissioner.

(l) “County” means a county of the State or Baltimore City.

(m) “Domestic insurer” means an insurer that is formed under the laws of the State.

(m-1) (1) “First-class mail tracking method” means a mail tracking method that provides evidence of the date that a piece of first-class mail was accepted for mailing by the United States Postal Service.

(2) “First-class mail tracking method” includes:

(i) a certificate of mail; and

(ii) an electronic mail tracking system used by the United States Postal Service.

(3) “First-class mail tracking method” does not include a certificate of bulk mailing.

(n) (1) “Foreign insurer” means an insurer that is formed under the laws of a jurisdiction other than this State.

(2) Unless the context requires otherwise, “foreign insurer” includes an alien insurer.

(o) “Fund producer” means a licensed insurance producer, including a licensed independent insurance producer, that has been assigned an authorization code by the Maryland Automobile Insurance Fund.

(p) (1) “Health insurance” means insurance of human beings against:

(i) bodily injury, disablement, or death by accident or accidental means, or the expenses of bodily injury, disablement, or death by accident or accidental means;

(ii) disablement or expenses resulting from sickness or childbirth;

and

(iii) expenses incurred in prevention of sickness or dental care.

(2) “Health insurance” includes:

(i) accident insurance;

(ii) disability insurance; and

(iii) each insurance appertaining to health insurance.

(3) “Health insurance” does not include workers’ compensation insurance.

(q) “Independent insurance producer” means an insurance producer:

(1) that is not owned or controlled by an insurer or group of insurers;

(2) the appointment of which does not prohibit the representation of more than one insurer or group of insurers; and

(3) the appointment of which provides that:

(i) at termination, the records of the insurance producer remain the property of the insurance producer; and

(ii) the insurance producer retains the use and control of all expirations incurred during the period when the appointment was in effect.

(r) “Industrial life insurance” means life insurance provided by an individual policy with the term “industrial” printed on the policy as part of the brief description required by § 16–213 of this article, and under which premiums are payable monthly

or more frequently, if the face amount of the insurance provided by the policy does not exceed \$1,000.

(s) Except as expressly provided otherwise in this article, “insurance” means a contract to indemnify or to pay or provide a specified or determinable amount or benefit on the occurrence of a determinable contingency.

(t) (1) “Insurance business” includes the transaction of:

(i) all matters pertaining to an insurance contract, either before or after it takes effect; and

(ii) all matters arising from an insurance contract or a claim under it.

(2) “Insurance business” does not include pooling by public entities for self-insurance of casualty, property, or health risks.

(u) (1) “Insurance producer” means a person that, for compensation, sells, solicits, or negotiates insurance contracts, including contracts for nonprofit health service plans, dental plan organizations, and health maintenance organizations, or the renewal or continuance of these insurance contracts for:

(i) persons issuing the insurance contracts; or

(ii) insureds or prospective insureds other than the insurance producer.

(2) “Insurance producer” does not include:

(i) an individual who performs clerical or similar office duties while employed by an insurance producer or insurer, including a clerical employee, other than a clerical employee of an insurer, who takes insurance information or receives premiums in the insurance producer’s office, if the employee’s compensation does not vary with the number of applications or amount of premiums;

(ii) a regular salaried officer or employee of an insurer who gives help to or for a licensed insurance producer, if the officer or employee is not paid a commission or other compensation that depends directly on the amount of business obtained; or

(iii) if not paid a commission, a person that obtains and forwards information for:

1. group insurance coverage;

2. enrolling individuals under group insurance coverage;

3. issuing certificates under group insurance coverage; or
4. otherwise assisting in administering group plans.

(v) “Insurer” includes each person engaged as indemnitor, surety, or contractor in the business of entering into insurance contracts.

(w) “Licensed insurance producer” means an insurance producer that has:

(1) obtained a license under Title 10, Subtitle 1 of this article; and

(2) in the case of an insurance producer that acts on behalf of an insurer other than the Maryland Automobile Insurance Fund, obtained an appointment under Title 10, Subtitle 1 of this article.

(x) (1) “Life insurance” means insurance for which the probabilities of the duration of human life or the rate of mortality are an element or condition of the insurance.

(2) “Life insurance” includes the granting of:

(i) endowment benefits;

(ii) additional benefits in the event of death by accident or accidental means;

(iii) additional disability benefits in the event of dismemberment or loss of sight;

(iv) additional disability benefits that operate to safeguard the contract from lapse or to provide a special surrender value, special benefit, or annuity in the event of total and permanent disability;

(v) benefits that provide payment or reimbursement for long-term home health care, or long-term care in a nursing home or other related institution;

(vi) burial insurance;

(vii) optional modes of settlement of proceeds of life insurance;

(viii) additional benefits for a second opinion for specified health conditions; and

(ix) additional benefits that provide a lump-sum benefit for a specified disease and that meet the requirements established by the Commissioner under § 15-109 of this article.

(3) “Life insurance” does not include workers’ compensation insurance.

(y) “Life insurer” means an insurer in life insurance.

(z) (1) “Marine insurance” includes:

(i) insurance against loss or damage in connection with any risk of navigation, transit, or transportation, including war risks, marine builder’s risks and personal property floater risks, to vessels, craft, aircraft, automobiles, trailers, or vehicles of any kind, as well as all goods, freight, cargoes, merchandise, effects, disbursements, profits, money, bullion, precious stones, securities, choses in action, evidences of debt, valuable papers, bottomry and respondentia interests, and all other kinds of property and interests:

1. on or under water, on land, or in the air;
2. while being assembled, packed, crated, baled, compressed, or similarly prepared for shipment or while awaiting shipment; or
3. during any delay, storage, transshipment, or incidental reshipment;

(ii) except as provided in paragraph (2) of this subsection, insurance against:

1. loss or damage to a person or property in connection with or as part of marine, inland marine, transit, or transportation insurance arising out of or in connection with the construction, repair, operation, maintenance, or use of the subject matter of the insurance; and

2. legal liability of the insured for loss of or damage to the person or property;

(iii) insurance against loss or damage to precious stones, jewels, jewelry, gold, silver and other precious metals, whether used in business or trade or otherwise or whether in course of transportation or otherwise; and

(iv) except as provided in paragraph (2) of this subsection, insurance against loss or damage to bridges, tunnels, other instrumentalities of transportation and communication, auxiliary facilities and related equipment, piers, wharves, docks, slips, other aids to navigation and transportation, dry docks, and marine railways.

(2) “Marine insurance” does not include:

(i) life insurance, surety bonds, or insurance against loss because of bodily injury to a person arising out of ownership, maintenance, or use of an automobile; or

(ii) insurance against loss or damage to buildings that are instrumentalities of transportation and communication, their furniture and

furnishings, and fixed contents and supplies stored in the buildings.

(aa) “Marine protection and indemnity insurance” means insurance against, or against legal liability of the insured for, loss, damage, or expense arising out of or incident to the ownership, operation, chartering, maintenance, use, repair, or construction of a vessel, craft, or instrumentality used in ocean or inland waterways, including legal liability of the insured for personal injury, illness, or death or for loss or damage to the property of another person.

(bb) “Mutual insurer” means an insurer that is incorporated without capital stock and the governing body of which is elected in accordance with this article.

(cc) “Negotiate” means to confer directly with or offer advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

(dd) “Person” means an individual, receiver, trustee, guardian, personal representative, fiduciary, representative of any kind, partnership, firm, association, corporation, or other entity.

(ee) (1) “Policy” means the written instrument in which an insurance contract is set forth.

(2) “Policy” includes all clauses, endorsements, riders, and other papers attached to or made part of the insurance contract.

(ff) (1) “Premium” means consideration for insurance.

(2) “Premium” includes:

(i) except as provided in paragraph (3) of this subsection, an assessment; and

(ii) a membership fee, policy fee, survey fee, inspection fee, service fee, driving record report fee, accident history report fee, or other similar fee in consideration for an insurance contract.

(3) “Premium” does not include:

(i) an assessment as described in § 9–225 of this article; or

(ii) an assessment made under any State law that provides for insolvency protection or insurance availability.

(gg) (1) “Property insurance” means insurance on real or personal property on land, in water, or in the air or an interest in real or personal property against loss or

damage from any hazard or cause and against loss that is consequential to the loss or damage.

(2) “Property insurance” includes fire insurance, flood insurance, extended coverage insurance, homeowners insurance, farm owners insurance, allied lines insurance, earthquake insurance, growing crops insurance, aircraft physical damage insurance, automobile physical damage insurance, glass insurance, livestock insurance, and animal insurance.

(3) “Property insurance” does not include insurance against legal liability for loss or damage to real or personal property.

(hh) “Reciprocal insurance” means insurance that arises from an exchange among subscribers of mutual agreements of indemnity and that is effected through an attorney in fact common to the subscribers.

(ii) “Reciprocal insurer” means an unincorporated aggregation of subscribers that operate individually and collectively through an attorney in fact to provide reciprocal insurance.

(jj) “Reinsurance” means a contract under which an insurer obtains insurance for itself from another insurer for all or part of an insurance risk.

(kk) “Sell” means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurer.

(ll) “Solicit” means to attempt to sell insurance or to ask or urge a person to apply for a particular kind of insurance from a particular insurer.

(mm) Except as otherwise expressly provided in this article, “state” means:

(1) a state, possession, territory, or commonwealth of the United States;
or

(2) the District of Columbia.

(nn) “Stock insurer” means an insurer that is incorporated with capital that is divided into shares and owned by its stockholders.

(oo) “Surety insurance” includes:

(1) fidelity insurance, which is insurance that guarantees the fidelity of persons that hold positions of public or private trust;

(2) insurance that guarantees the performance of contracts other than insurance contracts;

(3) insurance that guarantees the execution of bonds, undertakings, and

contracts of suretyship; and

(4) insurance that indemnifies banks, bankers, brokers, or financial corporations or associations against loss from any cause of bills of exchange, notes, bonds, securities, evidences of debt, deeds, mortgages, warehouse receipts, other valuable papers, documents, money, precious metals, articles made from precious metals, jewelry, watches, necklaces, bracelets, gems, and precious and semi-precious stones, including loss during transportation by messenger or in armored motor vehicles, but not against other risks of transportation or navigation, and insurance against loss or damage to a bank's, banker's, broker's, or financial corporation's or association's premises or furniture, fixtures, equipment, safes, and vaults on the premises caused by burglary, robbery, theft, vandalism, or malicious mischief, or attempted burglary, robbery, theft, vandalism, or malicious mischief.

(pp) "Surplus lines insurance" means the full amount or kind of insurance needed to protect the interest of the insured that:

(1) cannot be obtained from an authorized insurer; or

(2) for the particular kind and class of insurance to provide coverage against liability of persons described in § 24–206(1) of this article, cannot be obtained from three or more authorized insurers that write that kind and class of insurance on a broad basis.

(qq) "Title insurance" means insurance of owners of property or other persons that have an interest in the property against loss by encumbrance, defective title, invalidity of title, or adverse claim to title.

(rr) "Unauthorized insurer" means an insurer that does not hold a certificate of authority.

(ss) "Wet marine and transportation insurance" means the part of marine insurance that includes only:

(1) insurance of vessels, crafts, or hulls and interests in or related to them;

(2) insurance of marine builder's risks or marine war risks;

(3) marine protection and indemnity insurance;

(4) insurance of freights and disbursements pertaining to a subject of insurance under this subsection; and

(5) insurance of personal property and interests in personal property, in connection with any risk of navigation, transit, or transportation:

(i) in the course of exportation from or importation into a country and in the course of transportation along a coast or on inland waters, including

transportation by land, water, or air from point of origin to final destination;

(ii) while being prepared for and while awaiting shipment; and

(iii) during any delay, storage, transshipment, or incidental reshipment.

(tt) (1) “Wholesale life insurance” means life insurance that is:

(i) distributed on a mass merchandising basis;

(ii) administered by group methods provided, with or without evidence of insurability, by individual policies; and

(iii) made available to employees or members under a program, which also may provide coverage of dependents of the employees or members, sponsored by:

1. an employer or association of employers;

2. a union or association of unions;

3. an association of individuals who have the same occupation or profession;

4. an association of civil service employees;

5. a religious, charitable, recreational, educational, civic, or fraternal organization or association;

6. a school;

7. a sports team;

8. a volunteer fire department; or

9. a group approved by the Commissioner that has a common administrative capacity, is not organized primarily for the sale of insurance, and has sufficient numbers to allow for lower rates.

(2) “Wholesale life insurance” does not include a policy solely because the premium for the policy is paid by salary deduction, salary savings, payroll allotment, or similar arrangement.

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