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§9–407.

(a) For a member insurer that is an impaired insurer, the Corporation, subject to any conditions imposed by the Corporation that do not impair the contractual obligations of the impaired insurer and that are approved by the Commissioner, may:

(1) guarantee or reinsure, or cause to be guaranteed, assumed, or reinsured, any or all of the covered policies or contracts of the impaired insurer; and

(2) provide moneys, pledges, loans, notes, guarantees, or other appropriate means to:

(i) carry out item (1) of this subsection; and

(ii) ensure payment of the contractual obligations of the impaired insurer, pending action under item (1) of this subsection.

(b) For a member insurer that is an insolvent insurer, the Corporation may:

(1) (i) guarantee or reinsure, or cause to be guaranteed, assumed, or reinsured, any or all of the covered policies or contracts of the insolvent insurer; or

(ii) ensure payment of the contractual obligations of the insolvent insurer; and

(2) provide money, pledges, loans, notes, guarantees, or other appropriate means to discharge the Corporation's duties under item (1) of this subsection.

(c) If the Corporation fails to act within a reasonable period of time with respect to the impaired or insolvent insurer, the Commissioner shall have the powers and duties of the Corporation under this subtitle.

(d) (1) In carrying out its duties under subsection (b) of this section, the Corporation may request that policy liens, contract liens, moratoriums on payments, or other similar means be imposed.

(2) Policy liens, contract liens, moratoriums on payments, or other similar means may be imposed if the Commissioner approves the specific policy liens, contract liens, moratoriums on payments, or other similar means after finding that:

(i) the amounts that can be assessed under this subtitle are less than the amounts needed to ensure full and prompt performance of the impaired insurer's contractual obligations; or

(ii) the economic or financial conditions, as they affect member

insurers, are sufficiently adverse to render the imposition of policy liens, contract liens, moratoriums on payments, or other similar means to be in the public interest.

(3) (i) Before being obligated under subsection (b) of this section, the Corporation may request that temporary moratoriums or liens on payments of cash values and policy loans be imposed.

(ii) If the Commissioner approves, the temporary moratoriums or liens requested by the Corporation under this paragraph may be imposed.

(e) The Corporation is not liable under this section for a covered policy of a foreign insurer or alien insurer whose domiciliary jurisdiction or state of entry provides, by statute or regulation, protection for residents of this State substantially similar to that provided under this subtitle for residents of other states.

(f) On request of the Commissioner, the Corporation may give help and advice to the Commissioner about rehabilitation, payment of claims, continuations of coverage, or the performance of other contractual obligations of an impaired insurer.

(g) (1) The Corporation has standing to appear or intervene before any court or agency with jurisdiction over an impaired or insolvent insurer as to which the Corporation is or may become obligated under this subtitle.

(2) The standing extends to all matters germane to the powers and duties of the Corporation, including proposals for reinsuring or guaranteeing the covered policies of the impaired or insolvent insurer and the determination of the covered policies and contractual obligations.

(h) (1) A person receiving benefits under this subtitle, whether the benefits are payments of contractual obligations or continuation of coverage, is deemed to have assigned all rights under or causes of action relating to the covered policy to the Corporation to the extent of the benefits received because of this subtitle.

(2) The Corporation may require a payee, policy or contract owner, beneficiary, insured, or annuitant to assign to the Corporation all rights to the extent of benefits received under the covered policy as a condition precedent to the receipt of any rights or benefits under this subtitle.

(3) The Corporation is subrogated to the rights assigned under this subsection against the assets of the impaired or insolvent insurer.

(4) The subrogation rights of the Corporation under this subsection have the same priority against the assets of the impaired or insolvent insurer as those of the person entitled to receive benefits under this subtitle.

(i) In carrying out its duties in connection with guaranteeing or reinsuring policies or contracts under subsections (a) and (b) of this section, the Corporation may, subject to approval of the Commissioner, issue substitute coverage for a policy or

contract that provides an interest rate, a crediting rate, or a similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value by issuing an alternative policy or contract, if:

(1) in lieu of the index or other external reference provided for in the original policy or contract, the alternative policy or contract provides for:

(i) a fixed interest rate;

(ii) payment of dividends with minimum guarantees; or

(iii) a different method for calculating interest or changes in value;

(2) there is no requirement for evidence of insurability, waiting period, or other exclusion that would not have applied under the original policy or contract; and

(3) the alternative policy or contract is substantially similar to the original policy or contract in all other material terms.

(j) (1) Subject to paragraphs (2) and (3) of this subsection and unless the contractual obligations of the impaired insurer or insolvent insurer are reduced or excluded under subsection (d) of this section or § 9–403(g)(2) of this subtitle, the contractual obligations of the impaired insurer or insolvent insurer for which the Corporation is or may become liable shall be as great as, but no greater than, the contractual obligations that the impaired insurer or insolvent insurer would have had in the absence of the impairment or insolvency.

(2) The Corporation is not liable for health care received after the date of the impairment or insolvency unless the health care was in progress on the date of the impairment or insolvency or unless other health care coverage is not available from another insurer or nonprofit health service plan.

(3) Benefits for which the Corporation may become liable may not exceed the lesser of:

(i) the contractual obligations for which the insurer is or would have been liable if it were not an impaired insurer or insolvent insurer; or

(ii) with respect to any one life, regardless of the number of policies or contracts:

1. $300,000 in life insurance death benefits, but not more than $100,000 in net cash surrender and net cash withdrawal values for life insurance;

2. in health insurance benefits:

A. $500,000 for basic hospital, medical, and surgical insurance

or major medical insurance provided by health benefit plans, as defined in § 15–1301 of this article;

B. $300,000 for disability insurance and $300,000 for long–term care insurance, as defined in § 18–101 of this article; and

C. $100,000 for coverages not included as basic hospital, medical, and surgical insurance, or major medical insurance, or disability insurance or long–term care insurance, including any net cash surrender and net cash withdrawal values under items A and B of this item; and

3. A. $250,000 in the present value of annuity benefits, including net cash surrender and net cash withdrawal values; and

B. with respect to each payee under a structured settlement annuity, or beneficiary of the payee if the payee is deceased, $250,000 in present value annuity benefits, in the aggregate, including any net cash surrender and net cash withdrawal values.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, the Corporation may not, with respect to any one life, be liable for coverage greater than an aggregate of $300,000 for the benefits described in paragraph (3)(ii)1, 2, and 3 of this subsection.

(ii) The Corporation may not, with respect to any one life, be liable for coverage greater than an aggregate of $500,000 in basic hospital, medical, and surgical insurance or major medical insurance under paragraph (3)(ii)2A of this subsection.

(k) The Corporation may join an organization of one or more other state associations of similar purposes, to further the purposes and administer the powers and duties of the Corporation.

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