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INSURANCE CODE - INS

DIVISION 2. CLASSES OF INSURANCE [1880 - 12880.8] (*Division 2 enacted by Stats. 1935, Ch. 145.*)

PART 2. LIFE AND DISABILITY INSURANCE [10110 - 11549] (*Part 2 enacted by Stats. 1935, Ch. 145.*)

CHAPTER 6. Incorporated Life Insurers Issuing Policies on a Reserve Basis [10510 - 10541] (*Chapter 6 enacted by Stats. 1935, Ch. 145.*)

ARTICLE 3. Premiums and Premium Accounts [10540 - 10541] (*Article 3 added by Stats. 1945, Ch. 993.*)

10540. An incorporated life insurer issuing life insurance policies on the reserve basis may collect premiums in advance. Such insurers may also accept moneys for the payment of future premiums related to any policies issued by it. No such insurer may accept such moneys in an amount to exceed (1) the sum of future unpaid premiums on any such policy or (2) the sum of 10 such future unpaid annual premiums on any such policy if such sum is less than the sum of future unpaid premiums on any such policy. This section shall not limit the right of such insurers to accept funds under an agreement which provides for an accumulation of such funds for the purpose of purchasing annuities at future dates.

(*Amended by Stats. 1957, Ch. 2314.*)

10541. (a) Insurers authorized to deliver or issue for delivery life insurance policies in this state may deliver or issue for delivery one or more funding agreements, but the issuance or delivery of those funding agreements shall not be deemed to be doing the insurance business described in Section 700, a class of business as provided in Section 100 or 101, a "security" as defined in Section 821, or receipt of "gross premiums" as defined in Section 12221 or 12222 of the Revenue and Taxation Code.

Notwithstanding the definition of "insurance" in Section 22 or the definition of "life insurance" in Section 101, the issuance or delivery of a funding agreement by an admitted life insurer in this state shall constitute a lawful activity of that insurer that is reasonably related to and incidental to its insurance activities as provided in this section. However, this section shall not authorize any insurer to transact, under the guise of funding agreements, any class of insurance not authorized by its certificate of authority.

(b) As used in this section, the term "funding agreement" means an agreement that authorizes an admitted life insurer to accept funds and that provides for an accumulation of those funds for the purpose of making one or more payments at future dates in amounts that are not based on mortality or morbidity contingencies. However, the term "funding agreement" does not include any agreement in connection with the funding of one or more payments that are excludable from the gross income of the recipient under Section 104(a)(2) of the United States Internal Revenue Code, as it may be amended or renumbered from time to time.

(c) No amounts shall be guaranteed or credited under any funding agreement except upon reasonable assumptions as to investment income and expenses and on a basis equitable to all holders of funding agreements of a given class.

(d) Amounts paid to the insurer, and proceeds applied under optional modes of settlement, under those funding agreements may be allocated by the insurer to one or more separate accounts pursuant to Section 10506.

(e) The commissioner may establish reasonable conditions or adopt reasonable regulations relating to (1) the reserves to be maintained by insurers issuing those funding agreements, (2) the accounting and reporting of funds credited under those funding agreements, (3) the disclosure of information to be given to holders and prospective holders of those funding agreements, (4) the qualification of persons selling those funding agreements on behalf of insurers, and (5) any other matters relating to funding agreements that the commissioner considers necessary, proper, and advisable.

(f) Notwithstanding any other provision of law, the commissioner shall have sole authority to regulate the issuance and sale of those funding agreements, including the persons selling those funding agreements on behalf of insurers.

(g) Nothing in this section is intended to affect the order in which allowed claims shall be given preference under Section 1033. Holders of funding agreements shall retain the priority in allowance of claims described in paragraph (2) of subdivision (a) of Section 1033.

(*Amended by Stats. 1998, Ch. 386, Sec. 2. Effective January 1, 1999.*)

