

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 182

BY STATE AFFAIRS COMMITTEE

AN ACT

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

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;  
 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; or  
 38 (xii) An entity similar to any of the aforementioned.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (b) "Principal place of business" of a plan sponsor of a benefit plan  
2 shall be deemed to be the principal place of business of the associa-  
3 tion, committee, joint board of trustees or other similar group of rep-  
4 resentatives of the parties who establish or maintain the benefit plan  
5 that, in lieu of a specific or clear designation of a principal place  
6 of business, shall be deemed to be the principal place of business of  
7 the employer or employee organization that has the largest investment  
8 in the benefit plan in question.

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

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

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

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

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

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