

1 AN ACT concerning insurance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by
5 changing Sections 531.03, 531.05, 531.07, 531.08, 531.09, and
6 531.14 as follows:

7 (215 ILCS 5/531.03) (from Ch. 73, par. 1065.80-3)

8 Sec. 531.03. Coverage and limitations.

9 (1) This Article shall provide coverage for the policies
10 and contracts specified in paragraph (2) of this Section:

11 (a) to persons who, regardless of where they reside
12 (except for non-resident certificate holders under group
13 policies or contracts), are the beneficiaries, assignees
14 or payees of the persons covered under subparagraph (1) (b),
15 and

16 (b) to persons who are owners of or certificate holders
17 under the policies or contracts (other than unallocated
18 annuity contracts and structured settlement annuities) and
19 in each case who:

20 (i) are residents; or

21 (ii) are not residents, but only under all of the
22 following conditions:

23 (A) the insurer that issued the policies or

1 contracts is domiciled in this State;

2 (B) the states in which the persons reside have
3 associations similar to the Association created by
4 this Article;

5 (C) the persons are not eligible for coverage
6 by an association in any other state due to the
7 fact that the insurer was not licensed in that
8 state at the time specified in that state's
9 guaranty association law.

10 (c) For unallocated annuity contracts specified in
11 subsection (2), paragraphs (a) and (b) of this subsection
12 (1) shall not apply and this Article shall (except as
13 provided in paragraphs (e) and (f) of this subsection)
14 provide coverage to:

15 (i) persons who are the owners of the unallocated
16 annuity contracts if the contracts are issued to or in
17 connection with a specific benefit plan whose plan
18 sponsor has its principal place of business in this
19 State; and

20 (ii) persons who are owners of unallocated annuity
21 contracts issued to or in connection with government
22 lotteries if the owners are residents.

23 (d) For structured settlement annuities specified in
24 subsection (2), paragraphs (a) and (b) of this subsection
25 (1) shall not apply and this Article shall (except as
26 provided in paragraphs (e) and (f) of this subsection)

1 provide coverage to a person who is a payee under a
2 structured settlement annuity (or beneficiary of a payee if
3 the payee is deceased), if the payee:

4 (i) is a resident, regardless of where the contract
5 owner resides; or

6 (ii) is not a resident, but only under both of the
7 following conditions:

8 (A) with regard to residency:

9 (I) the contract owner of the structured
10 settlement annuity is a resident; or

11 (II) the contract owner of the structured
12 settlement annuity is not a resident but the
13 insurer that issued the structured settlement
14 annuity is domiciled in this State and the
15 state in which the contract owner resides has
16 an association similar to the Association
17 created by this Article; and

18 (B) neither the payee or beneficiary nor the
19 contract owner is eligible for coverage by the
20 association of the state in which the payee or
21 contract owner resides.

22 (e) This Article shall not provide coverage to:

23 (i) a person who is a payee or beneficiary of a
24 contract owner resident of this State if the payee or
25 beneficiary is afforded any coverage by the
26 association of another state; or

1 (ii) a person covered under paragraph (c) of this
2 subsection (1), if any coverage is provided by the
3 association of another state to that person.

4 (f) This Article is intended to provide coverage to a
5 person who is a resident of this State and, in special
6 circumstances, to a nonresident. In order to avoid
7 duplicate coverage, if a person who would otherwise receive
8 coverage under this Article is provided coverage under the
9 laws of any other state, then the person shall not be
10 provided coverage under this Article. In determining the
11 application of the provisions of this paragraph in
12 situations where a person could be covered by the
13 association of more than one state, whether as an owner,
14 payee, beneficiary, or assignee, this Article shall be
15 construed in conjunction with other state laws to result in
16 coverage by only one association.

17 (2)(a) This Article shall provide coverage to the persons
18 specified in paragraph (1) of this Section for direct, (i)
19 nongroup life, health, annuity and supplemental policies, or
20 contracts, (ii) for certificates under direct group policies or
21 contracts, (iii) for unallocated annuity contracts and (iv) for
22 contracts to furnish health care services and subscription
23 certificates for medical or health care services issued by
24 persons licensed to transact insurance business in this State
25 under the Illinois Insurance Code. Annuity contracts and
26 certificates under group annuity contracts include but are not

1 limited to guaranteed investment contracts, deposit
2 administration contracts, unallocated funding agreements,
3 allocated funding agreements, structured settlement
4 agreements, lottery contracts and any immediate or deferred
5 annuity contracts.

6 (b) This Article shall not provide coverage for:

7 (i) that portion of a policy or contract not guaranteed
8 by the insurer, or under which the risk is borne by the
9 policy or contract owner;

10 (ii) any such policy or contract or part thereof
11 assumed by the impaired or insolvent insurer under a
12 contract of reinsurance, other than reinsurance for which
13 assumption certificates have been issued;

14 (iii) any portion of a policy or contract to the extent
15 that the rate of interest on which it is based or the
16 interest rate, crediting rate, or similar factor is
17 determined by use of an index or other external reference
18 stated in the policy or contract employed in calculating
19 returns or changes in value:

20 (A) averaged over the period of 4 years prior to
21 the date on which the member insurer becomes an
22 impaired or insolvent insurer under this Article,
23 whichever is earlier, exceeds the rate of interest
24 determined by subtracting 2 percentage points from
25 Moody's Corporate Bond Yield Average averaged for that
26 same 4-year period or for such lesser period if the

1 policy or contract was issued less than 4 years before
2 the member insurer becomes an impaired or insolvent
3 insurer under this Article, whichever is earlier; and

4 (B) on and after the date on which the member
5 insurer becomes an impaired or insolvent insurer under
6 this Article, whichever is earlier, exceeds the rate of
7 interest determined by subtracting 3 percentage points
8 from Moody's Corporate Bond Yield Average as most
9 recently available;

10 (iv) any unallocated annuity contract issued to or in
11 connection with a benefit plan protected under the federal
12 Pension Benefit Guaranty Corporation, regardless of
13 whether the federal Pension Benefit Guaranty Corporation
14 has yet become liable to make any payments with respect to
15 the benefit plan;

16 (v) any portion of any unallocated annuity contract
17 which is not issued to or in connection with a specific
18 employee, union or association of natural persons benefit
19 plan or a government lottery;

20 (vi) an obligation that does not arise under the
21 express written terms of the policy or contract issued by
22 the insurer to the contract owner or policy owner,
23 including without limitation:

24 (A) a claim based on marketing materials;

25 (B) a claim based on side letters, riders, or other
26 documents that were issued by the insurer without

1 meeting applicable policy form filing or approval
2 requirements;

3 (C) a misrepresentation of or regarding policy
4 benefits;

5 (D) an extra-contractual claim; or

6 (E) a claim for penalties or consequential or
7 incidental damages;

8 (vii) any stop-loss insurance, as defined in clause (b)
9 of Class 1 or clause (a) of Class 2 of Section 4, and
10 further defined in subsection (d) of Section 352;

11 (viii) any policy or contract providing any hospital,
12 medical, prescription drug, or other health care benefits
13 pursuant to Part C or Part D of Subchapter XVIII, Chapter 7
14 of Title 42 of the United States Code (commonly known as
15 Medicare Part C & D) or any regulations issued pursuant
16 thereto;

17 (ix) any portion of a policy or contract to the extent
18 that the assessments required by Section 531.09 of this
19 Code with respect to the policy or contract are preempted
20 or otherwise not permitted by federal or State law;

21 (x) any portion of a policy or contract issued to a
22 plan or program of an employer, association, or other
23 person to provide life, health, or annuity benefits to its
24 employees, members, or others to the extent that the plan
25 or program is self-funded or uninsured, including, but not
26 limited to, benefits payable by an employer, association,

1 or other person under:

2 (A) a multiple employer welfare arrangement as
3 defined in 29 U.S.C. Section 1002 ~~29 U.S.C. Section~~
4 ~~1144~~;

5 (B) a minimum premium group insurance plan;

6 (C) a stop-loss group insurance plan; or

7 (D) an administrative services only contract;

8 (xi) any portion of a policy or contract to the extent
9 that it provides for:

10 (A) dividends or experience rating credits;

11 (B) voting rights; or

12 (C) payment of any fees or allowances to any
13 person, including the policy or contract owner, in
14 connection with the service to or administration of the
15 policy or contract;

16 (xii) any policy or contract issued in this State by a
17 member insurer at a time when it was not licensed or did
18 not have a certificate of authority to issue the policy or
19 contract in this State;

20 (xiii) any contractual agreement that establishes the
21 member insurer's obligations to provide a book value
22 accounting guaranty for defined contribution benefit plan
23 participants by reference to a portfolio of assets that is
24 owned by the benefit plan or its trustee, which in each
25 case is not an affiliate of the member insurer;

26 (xiv) any portion of a policy or contract to the extent

1 that it provides for interest or other changes in value to
2 be determined by the use of an index or other external
3 reference stated in the policy or contract, but which have
4 not been credited to the policy or contract, or as to which
5 the policy or contract owner's rights are subject to
6 forfeiture, as of the date the member insurer becomes an
7 impaired or insolvent insurer under this Code, whichever is
8 earlier. If a policy's or contract's interest or changes in
9 value are credited less frequently than annually, then for
10 purposes of determining the values that have been credited
11 and are not subject to forfeiture under this Section, the
12 interest or change in value determined by using the
13 procedures defined in the policy or contract will be
14 credited as if the contractual date of crediting interest
15 or changing values was the date of impairment or
16 insolvency, whichever is earlier, and will not be subject
17 to forfeiture; or

18 (xv) that portion or part of a variable life insurance
19 or variable annuity contract not guaranteed by an insurer.

20 (3) The benefits for which the Association may become
21 liable shall in no event exceed the lesser of:

22 (a) the contractual obligations for which the insurer
23 is liable or would have been liable if it were not an
24 impaired or insolvent insurer, or

25 (b) (i) with respect to any one life, regardless of the
26 number of policies or contracts:

1 (A) \$300,000 in life insurance death benefits, but
2 not more than \$100,000 in net cash surrender and net
3 cash withdrawal values for life insurance;

4 (B) in health insurance benefits:

5 (I) \$100,000 for coverages not defined as
6 disability insurance or basic hospital, medical,
7 and surgical insurance or major medical insurance
8 or long-term care insurance, including any net
9 cash surrender and net cash withdrawal values;

10 (II) \$300,000 for disability insurance and
11 \$300,000 for long-term care insurance as defined
12 in Section 351A-1 of this Code; and

13 (III) \$500,000 for basic hospital medical and
14 surgical insurance or major medical insurance;

15 (C) \$250,000 in the present value of annuity
16 benefits, including net cash surrender and net cash
17 withdrawal values;

18 (ii) with respect to each individual participating in a
19 governmental retirement benefit plan established under
20 Sections 401, 403(b), or 457 of the U.S. Internal Revenue
21 Code covered by an unallocated annuity contract or the
22 beneficiaries of each such individual if deceased, in the
23 aggregate, \$250,000 in present value annuity benefits,
24 including net cash surrender and net cash withdrawal
25 values;

26 (iii) with respect to each payee of a structured

1 settlement annuity or beneficiary or beneficiaries of the
2 payee if deceased, \$250,000 in present value annuity
3 benefits, in the aggregate, including net cash surrender
4 and net cash withdrawal values, if any; or

5 (iv) with respect to either (1) one contract owner
6 provided coverage under subparagraph (ii) of paragraph (c)
7 of subsection (1) of this Section or (2) one plan sponsor
8 whose plans own directly or in trust one or more
9 unallocated annuity contracts not included in subparagraph
10 (ii) of paragraph (b) of this subsection, \$5,000,000 in
11 benefits, irrespective of the number of contracts with
12 respect to the contract owner or plan sponsor. However, in
13 the case where one or more unallocated annuity contracts
14 are covered contracts under this Article and are owned by a
15 trust or other entity for the benefit of 2 or more plan
16 sponsors, coverage shall be afforded by the Association if
17 the largest interest in the trust or entity owning the
18 contract or contracts is held by a plan sponsor whose
19 principal place of business is in this State. In no event
20 shall the Association be obligated to cover more than
21 \$5,000,000 in benefits with respect to all these
22 unallocated contracts.

23 In no event shall the Association be obligated to cover
24 more than (1) an aggregate of \$300,000 in benefits with respect
25 to any one life under subparagraphs (i), (ii), and (iii) of
26 this paragraph (b) except with respect to benefits for basic

1 hospital, medical, and surgical insurance and major medical
2 insurance under item (B) of subparagraph (i) of this paragraph
3 (b), in which case the aggregate liability of the Association
4 shall not exceed \$500,000 with respect to any one individual or
5 (2) with respect to one owner of multiple nongroup policies of
6 life insurance, whether the policy owner is an individual,
7 firm, corporation, or other person and whether the persons
8 insured are officers, managers, employees, or other persons,
9 \$5,000,000 in benefits, regardless of the number of policies
10 and contracts held by the owner.

11 The limitations set forth in this subsection are
12 limitations on the benefits for which the Association is
13 obligated before taking into account either its subrogation and
14 assignment rights or the extent to which those benefits could
15 be provided out of the assets of the impaired or insolvent
16 insurer attributable to covered policies. The costs of the
17 Association's obligations under this Article may be met by the
18 use of assets attributable to covered policies or reimbursed to
19 the Association pursuant to its subrogation and assignment
20 rights.

21 (4) In performing its obligations to provide coverage under
22 Section 531.08 of this Code, the Association shall not be
23 required to guarantee, assume, reinsure, or perform or cause to
24 be guaranteed, assumed, reinsured, or performed the
25 contractual obligations of the insolvent or impaired insurer
26 under a covered policy or contract that do not materially

1 affect the economic values or economic benefits of the covered
2 policy or contract.

3 (Source: P.A. 96-1450, eff. 8-20-10.)

4 (215 ILCS 5/531.05) (from Ch. 73, par. 1065.80-5)

5 Sec. 531.05. Definitions. As used in this Act:

6 "Account" means either of the 2 ~~3~~ accounts created under
7 Section 531.06.

8 "Association" means the Illinois Life and Health Insurance
9 Guaranty Association created under Section 531.06.

10 "Authorized assessment" or the term "authorized" when used
11 in the context of assessments means a resolution by the Board
12 of Directors has been passed whereby an assessment shall be
13 called immediately or in the future from member insurers for a
14 specified amount. An assessment is authorized when the
15 resolution is passed.

16 "Benefit plan" means a specific employee, union, or
17 association of natural persons benefit plan.

18 "Called assessment" or the term "called" when used in the
19 context of assessments means that a notice has been issued by
20 the Association to member insurers requiring that an authorized
21 assessment be paid within the time frame set forth within the
22 notice. An authorized assessment becomes a called assessment
23 when notice is mailed by the Association to member insurers.

24 "Director" means the Director of Insurance of this State.

25 "Contractual obligation" means any obligation under a

1 policy or contract or certificate under a group policy or
2 contract, or portion thereof for which coverage is provided
3 under Section 531.03.

4 "Covered person" means any person who is entitled to the
5 protection of the Association as described in Section 531.02.

6 "Covered policy" means any policy or contract within the
7 scope of this Article under Section 531.03.

8 "Extra-contractual claims" shall include, for example,
9 claims relating to bad faith in the payment of claims, punitive
10 or exemplary damages, or attorneys' fees and costs.

11 "Impaired insurer" means (A) a member insurer which, after
12 the effective date of this amendatory Act of the 97th General
13 Assembly ~~amendatory Act of the 96th General Assembly~~, is not an
14 insolvent insurer, and is placed under an order of
15 rehabilitation or conservation by a court of competent
16 jurisdiction or (B) a member insurer deemed by the Director
17 after the effective date of this amendatory Act of the 96th
18 General Assembly to be potentially unable to fulfill its
19 contractual obligations and not an insolvent insurer.

20 "Insolvent insurer" means a member insurer that, after the
21 effective date of this amendatory Act of the 96th General
22 Assembly, is placed under a final order of liquidation by a
23 court of competent jurisdiction with a finding of insolvency.

24 "Member insurer" means an insurer licensed or holding a
25 certificate of authority to transact in this State any kind of
26 insurance for which coverage is provided under Section 531.03

1 of this Code and includes an insurer whose license or
2 certificate of authority in this State may have been suspended,
3 revoked, not renewed, or voluntarily withdrawn or whose
4 certificate of authority may have been suspended pursuant to
5 Section 119 of this Code, but does not include:

6 (1) a hospital or medical service organization,
7 whether profit or nonprofit;

8 (2) a health maintenance organization;

9 (3) any burial society organized under Article XIX of
10 this Code, any fraternal benefit society organized under
11 Article XVII of this Code, any mutual benefit association
12 organized under Article XVIII of this Code, and any foreign
13 fraternal benefit society licensed under Article VI of this
14 Code ~~or a fraternal benefit society;~~

15 (4) a mandatory State pooling plan;

16 (5) a mutual assessment company or other person that
17 operates on an assessment basis;

18 (6) an insurance exchange;

19 (7) an organization that is permitted to issue
20 charitable gift annuities pursuant to Section 121-2.10 of
21 this Code;

22 (8) any health services plan corporation established
23 pursuant to the Voluntary Health Services Plans Act;

24 (9) any dental service plan corporation established
25 pursuant to the Dental Service Plan Act; or

26 (10) an entity similar to any of the above.

1 "Moody's Corporate Bond Yield Average" means the Monthly
2 Average Corporates as published by Moody's Investors Service,
3 Inc., or any successor thereto.

4 "Owner" of a policy or contract and "policy owner" and
5 "contract owner" mean the person who is identified as the legal
6 owner under the terms of the policy or contract or who is
7 otherwise vested with legal title to the policy or contract
8 through a valid assignment completed in accordance with the
9 terms of the policy or contract and properly recorded as the
10 owner on the books of the insurer. The terms owner, contract
11 owner, and policy owner do not include persons with a mere
12 beneficial interest in a policy or contract.

13 "Person" means an individual, corporation, limited
14 liability company, partnership, association, governmental body
15 or entity, or voluntary organization.

16 "Plan sponsor" means:

17 (1) the employer in the case of a benefit plan
18 established or maintained by a single employer;

19 (2) the employee organization in the case of a benefit
20 plan established or maintained by an employee
21 organization; or

22 (3) in a case of a benefit plan established or
23 maintained by 2 or more employers or jointly by one or more
24 employers and one or more employee organizations, the
25 association, committee, joint board of trustees, or other
26 similar group of representatives of the parties who

1 establish or maintain the benefit plan.

2 "Premiums" mean amounts or considerations, by whatever
3 name called, received on covered policies or contracts less
4 returned premiums, considerations, and deposits and less
5 dividends and experience credits.

6 "Premiums" does not include:

7 (A) amounts or considerations received for policies or
8 contracts or for the portions of policies or contracts for
9 which coverage is not provided under Section 531.03 of this
10 Code except that assessable premium shall not be reduced on
11 account of the provisions of subparagraph (iii) of
12 paragraph (b) of subsection (a) of Section 531.03 of this
13 Code relating to interest limitations and the provisions of
14 paragraph (b) of subsection (3) of Section 531.03 relating
15 to limitations with respect to one individual, one
16 participant, and one contract owner;

17 (B) premiums in excess of \$5,000,000 on an unallocated
18 annuity contract not issued under a governmental
19 retirement benefit plan (or its trustee) established under
20 Section 401, 403(b) or 457 of the United States Internal
21 Revenue Code; or

22 (C) with respect to multiple nongroup policies of life
23 insurance owned by one owner, whether the policy owner is
24 an individual, firm, corporation, or other person, and
25 whether the persons insured are officers, managers,
26 employees, or other persons, premiums in excess of

1 \$5,000,000 with respect to these policies or contracts,
2 regardless of the number of policies or contracts held by
3 the owner.

4 "Principal place of business" of a plan sponsor or a person
5 other than a natural person means the single state in which the
6 natural persons who establish policy for the direction,
7 control, and coordination of the operations of the entity as a
8 whole primarily exercise that function, determined by the
9 Association in its reasonable judgment by considering the
10 following factors:

11 (A) the state in which the primary executive and
12 administrative headquarters of the entity is located;

13 (B) the state in which the principal office of the
14 chief executive officer of the entity is located;

15 (C) the state in which the board of directors (or
16 similar governing person or persons) of the entity conducts
17 the majority of its meetings;

18 (D) the state in which the executive or management
19 committee of the board of directors (or similar governing
20 person or persons) of the entity conducts the majority of
21 its meetings;

22 (E) the state from which the management of the overall
23 operations of the entity is directed; and

24 (F) in the case of a benefit plan sponsored by
25 affiliated companies comprising a consolidated
26 corporation, the state in which the holding company or

1 controlling affiliate has its principal place of business
2 as determined using the above factors. However, in the case
3 of a plan sponsor, if more than 50% of the participants in
4 the benefit plan are employed in a single state, that state
5 shall be deemed to be the principal place of business of
6 the plan sponsor.

7 The principal place of business of a plan sponsor of a
8 benefit plan described in paragraph (3) of the definition of
9 "plan sponsor" ~~this Section~~ shall be deemed to be the principal
10 place of business of the association, committee, joint board of
11 trustees, or other similar group of representatives of the
12 parties who establish or maintain the benefit plan that, in
13 lieu of a specific or clear designation of a principal place of
14 business, shall be deemed to be the principal place of business
15 of the employer or employee organization that has the largest
16 investment in the benefit plan in question.

17 "Receivership court" means the court in the insolvent or
18 impaired insurer's state having jurisdiction over the
19 conservation, rehabilitation, or liquidation of the insurer.

20 "Resident" means a person to whom a contractual obligation
21 is owed and who resides in this State on the date of entry of a
22 court order that determines a member insurer to be an impaired
23 insurer or a court order that determines a member insurer to be
24 an insolvent insurer. A person may be a resident of only one
25 state, which in the case of a person other than a natural
26 person shall be its principal place of business. Citizens of

1 the United States that are either (i) residents of foreign
2 countries or (ii) residents of United States possessions,
3 territories, or protectorates that do not have an association
4 similar to the Association created by this Article, shall be
5 deemed residents of the state of domicile of the insurer that
6 issued the policies or contracts.

7 "Structured settlement annuity" means an annuity purchased
8 in order to fund periodic payments for a plaintiff or other
9 claimant in payment for or with respect to personal injury
10 suffered by the plaintiff or other claimant.

11 "State" means a state, the District of Columbia, Puerto
12 Rico, and a United States possession, territory, or
13 protectorate.

14 "Supplemental contract" means a written agreement entered
15 into for the distribution of proceeds under a life, health, or
16 annuity policy or a life, health, or annuity contract.

17 "Unallocated annuity contract" means any annuity contract
18 or group annuity certificate which is not issued to and owned
19 by an individual, except to the extent of any annuity benefits
20 guaranteed to an individual by an insurer under such contract
21 or certificate.

22 (Source: P.A. 96-1450, eff. 8-20-10.)

23 (215 ILCS 5/531.07) (from Ch. 73, par. 1065.80-7)

24 Sec. 531.07. Board of Directors.→ The board of directors
25 of the Association consists of not less than 7 nor more than 11

1 members serving terms as established in the plan of operation.
2 The insurer members ~~insurers~~ of the board are to be selected by
3 member insurers subject to the approval of the Director. In
4 addition, 2 persons who must be public representatives may be
5 appointed by the Director to the board of directors. A public
6 representative may not be an officer, director, or employee of
7 an insurance company or any person engaged in the business of
8 insurance. Vacancies on the board must be filled for the
9 remaining period of the term in the manner described in the
10 plan of operation.

11 In approving selections or in appointing members to the
12 board, the Director must consider, whether all member insurers
13 are fairly represented.

14 Members of the board may be reimbursed from the assets of
15 the Association for expenses incurred by them as members of the
16 board of directors but members of the board may not otherwise
17 be compensated by the Association for their services.

18 (Source: P.A. 96-1450, eff. 8-20-10.)

19 (215 ILCS 5/531.08) (from Ch. 73, par. 1065.80-8)

20 Sec. 531.08. Powers and duties of the Association.

21 (a) In addition to the powers and duties enumerated in
22 other Sections of this Article:

23 (1) If a member insurer is an impaired insurer, then
24 the Association may, in its discretion and subject to any
25 conditions imposed by the Association that do not impair

1 the contractual obligations of the impaired insurer and
2 that are approved by the Director:

3 (A) guarantee, assume, or reinsure or cause to be
4 guaranteed, assumed, or reinsured, any or all of the
5 policies or contracts of the impaired insurer; or

6 (B) provide such money, pledges, loans, notes,
7 guarantees, or other means as are proper to effectuate
8 paragraph (A) and assure payment of the contractual
9 obligations of the impaired insurer pending action
10 under paragraph (A).

11 (2) If a member insurer is an insolvent insurer, then
12 the Association shall, in its discretion, either:

13 (A) guaranty, assume, or reinsure or cause to be
14 guaranteed, assumed, or reinsured the policies or
15 contracts of the insolvent insurer or assure payment of
16 the contractual obligations of the insolvent insurer
17 and provide money, pledges, loans, notes, guarantees,
18 or other means reasonably necessary to discharge the
19 Association's duties; or

20 (B) provide benefits and coverages in accordance
21 with the following provisions:

22 (i) with respect to life and health insurance
23 policies and annuities, ensure payment of benefits
24 for premiums identical to the premiums and
25 benefits (except for terms of conversion and
26 renewability) that would have been payable under

1 the policies or contracts of the insolvent insurer
2 for claims incurred:

3 (a) with respect to group policies and
4 contracts, not later than the earlier of the
5 next renewal date under those policies or
6 contracts or 45 days, but in no event less than
7 30 days, after the date on which the
8 Association becomes obligated with respect to
9 the policies and contracts;

10 (b) with respect to nongroup policies,
11 contracts, and annuities not later than the
12 earlier of the next renewal date (if any) under
13 the policies or contracts or one year, but in
14 no event less than 30 days, from the date on
15 which the Association becomes obligated with
16 respect to the policies or contracts;

17 (ii) make diligent efforts to provide all
18 known insureds or annuitants (for nongroup
19 policies and contracts), or group policy owners
20 with respect to group policies and contracts, 30
21 days notice of the termination (pursuant to
22 subparagraph (i) of this paragraph (B)) of the
23 benefits provided;

24 (iii) with respect to nongroup life and health
25 insurance policies and annuities covered by the
26 Association, make available to each known insured

1 or annuitant, or owner if other than the insured or
2 annuitant, and with respect to an individual
3 formerly insured or formerly an annuitant under a
4 group policy who is not eligible for replacement
5 group coverage, make available substitute coverage
6 on an individual basis in accordance with the
7 provisions of paragraph (3), if the insureds or
8 annuitants had a right under law or the terminated
9 policy or annuity to convert coverage to
10 individual coverage or to continue an individual
11 policy or annuity in force until a specified age or
12 for a specified time, during which the insurer had
13 no right unilaterally to make changes in any
14 provision of the policy or annuity or had a right
15 only to make changes in premium by class.

16 (b) In providing the substitute coverage required under
17 subparagraph (iii) of paragraph (B) of item (2) of subsection
18 (a) of this Section, the Association may offer either to
19 reissue the terminated coverage or to issue an alternative
20 policy.

21 Alternative or reissued policies shall be offered without
22 requiring evidence of insurability, and shall not provide for
23 any waiting period or exclusion that would not have applied
24 under the terminated policy.

25 The Association may reinsure any alternative or reissued
26 policy.

1 Alternative policies adopted by the Association shall be
2 subject to the approval of the Director. The Association may
3 adopt alternative policies of various types for future
4 insurance without regard to any particular impairment or
5 insolvency.

6 Alternative policies shall contain at least the minimum
7 statutory provisions required in this State and provide
8 benefits that shall not be unreasonable in relation to the
9 premium charged. The Association shall set the premium in
10 accordance with a table of rates which it shall adopt. The
11 premium shall reflect the amount of insurance to be provided
12 and the age and class of risk of each insured, but shall not
13 reflect any changes in the health of the insured after the
14 original policy was last underwritten.

15 Any alternative policy issued by the Association shall
16 provide coverage of a type similar to that of the policy issued
17 by the impaired or insolvent insurer, as determined by the
18 Association.

19 (c) If the Association elects to reissue terminated
20 coverage at a premium rate different from that charged under
21 the terminated policy, the premium shall be set by the
22 Association in accordance with the amount of insurance provided
23 and the age and class of risk, subject to approval of the
24 Director or by a court of competent jurisdiction.

25 (d) The Association's obligations with respect to coverage
26 under any policy of the impaired or insolvent insurer or under

1 any reissued or alternative policy shall cease on the date such
2 coverage or policy is replaced by another similar policy by the
3 policyholder, the insured, or the Association.

4 (e) When proceeding under this Section with respect to any
5 policy or contract carrying guaranteed minimum interest rates,
6 the Association shall assure the payment or crediting of a rate
7 of interest consistent with subparagraph (2)(b)(iii)(B) of
8 Section 531.03.

9 (f) Nonpayment of premiums thirty-one days after the date
10 required under the terms of any guaranteed, assumed,
11 alternative or reissued policy or contract or substitute
12 coverage shall terminate the Association's obligations under
13 such policy or coverage under this Act with respect to such
14 policy or coverage, except with respect to any claims incurred
15 or any net cash surrender value which may be due in accordance
16 with the provisions of this Act.

17 (g) Premiums due for coverage after entry of an order of
18 liquidation of an insolvent insurer shall belong to and be
19 payable at the direction of the Association, and the
20 Association shall be liable for unearned premiums due to policy
21 or contract owners arising after the entry of such order.

22 (h) In carrying out its duties under paragraph (2) ~~of~~
23 ~~subsection (a)~~ of this Section, the Association may:

24 (1) subject to approval by a court ~~in this State,~~
25 impose permanent policy or contract liens in connection
26 with a guarantee, assumption, or reinsurance agreement if

1 the Association finds that the amounts which can be
2 assessed under this Article are less than the amounts
3 needed to assure full and prompt performance of the
4 Association's duties under this Article or that the
5 economic or financial conditions as they affect member
6 insurers are sufficiently adverse to render the imposition
7 of such permanent policy or contract liens to be in the
8 public interest; or

9 (2) subject to approval by a court ~~in this State,~~
10 impose temporary moratoriums or liens on payments of cash
11 values and policy loans or any other right to withdraw
12 funds held in conjunction with policies or contracts in
13 addition to any contractual provisions for deferral of cash
14 or policy loan value. In addition, in the event of a
15 temporary moratorium or moratorium charge imposed by the
16 receivership court on payment of cash values or policy
17 loans or on any other right to withdraw funds held in
18 conjunction with policies or contracts, out of the assets
19 of the impaired or insolvent insurer, the Association may
20 defer the payment of cash values, policy loans, or other
21 rights by the Association for the period of the moratorium
22 or moratorium charge imposed by the receivership court,
23 except for claims covered by the Association to be paid in
24 accordance with a hardship procedure established by the
25 liquidator or rehabilitator and approved by the
26 receivership court.

1 (i) There shall be no liability on the part of and no cause
2 of action shall arise against the Association or against any
3 transferee from the Association in connection with the transfer
4 by reinsurance or otherwise of all or any part of an impaired
5 or insolvent insurer's business by reason of any action taken
6 or any failure to take any action by the impaired or insolvent
7 insurer at any time.

8 (j) If the Association fails to act within a reasonable
9 period of time as provided in subsection (2) of this Section
10 with respect to an insolvent insurer, the Director shall have
11 the powers and duties of the Association under this Act with
12 regard to such insolvent insurers.

13 (k) The Association or its designated representatives may
14 render assistance and advice to the Director, upon his request,
15 concerning rehabilitation, payment of claims, continuations of
16 coverage, or the performance of other contractual obligations
17 of any impaired or insolvent insurer.

18 (l) The Association shall have standing to appear or
19 intervene before a court or agency in this State with
20 jurisdiction over an impaired or insolvent insurer concerning
21 which the Association is or may become obligated under this
22 Article or with jurisdiction over any person or property
23 against which the Association may have rights through
24 subrogation or otherwise. Standing shall extend to all matters
25 germane to the powers and duties of the Association, including,
26 but not limited to, proposals for reinsuring, modifying, or

1 guaranteeing the policies or contracts of the impaired or
2 insolvent insurer and the determination of the policies or
3 contracts and contractual obligations. The Association shall
4 also have the right to appear or intervene before a court or
5 agency in another state with jurisdiction over an impaired or
6 insolvent insurer for which the Association is or may become
7 obligated or with jurisdiction over any person or property
8 against whom the Association may have rights through
9 subrogation or otherwise.

10 (m) (1) A person receiving benefits under this Article shall
11 be deemed to have assigned the rights under and any causes of
12 action against any person for losses arising under, resulting
13 from, or otherwise relating to the covered policy or contract
14 to the Association to the extent of the benefits received
15 because of this Article, whether the benefits are payments of
16 or on account of contractual obligations, continuation of
17 coverage, or provision of substitute or alternative coverages.
18 The Association may require an assignment to it of such rights
19 and cause of action by any payee, policy, or contract owner,
20 beneficiary, insured, or annuitant as a condition precedent to
21 the receipt of any right or benefits conferred by this Article
22 upon the person.

23 (2) The subrogation rights of the Association under this
24 subsection have the same priority against the assets of the
25 impaired or insolvent insurer as that possessed by the person
26 entitled to receive benefits under this Article.

1 (3) In addition to paragraphs (1) and (2), the Association
2 shall have all common law rights of subrogation and any other
3 equitable or legal remedy that would have been available to the
4 impaired or insolvent insurer or owner, beneficiary, or payee
5 of a policy or contract with respect to the policy or
6 contracts, including without limitation, in the case of a
7 structured settlement annuity, any rights of the owner,
8 beneficiary, or payee of the annuity to the extent of benefits
9 received pursuant to this Article, against a person originally
10 or by succession responsible for the losses arising from the
11 personal injury relating to the annuity or payment therefor,
12 excepting any such person responsible solely by reason of
13 serving as an assignee in respect of a qualified assignment
14 under Internal Revenue Code Section 130.

15 (4) If the preceding provisions of this subsection (1) are
16 invalid or ineffective with respect to any person or claim for
17 any reason, then the amount payable by the Association with
18 respect to the related covered obligations shall be reduced by
19 the amount realized by any other person with respect to the
20 person or claim that is attributable to the policies, or
21 portion thereof, covered by the Association.

22 (5) If the Association has provided benefits with respect
23 to a covered obligation and a person recovers amounts as to
24 which the Association has rights as described in the preceding
25 paragraphs of this subsection (10), then the person shall pay
26 to the Association the portion of the recovery attributable to

1 the policies, or portion thereof, covered by the Association.

2 (n) The Association may:

3 (1) Enter into such contracts as are necessary or
4 proper to carry out the provisions and purposes of this
5 Article.~~†~~

6 (2) Sue or be sued, including taking any legal actions
7 necessary or proper for recovery of any unpaid assessments
8 under Section 531.09. The Association shall not be liable
9 for punitive or exemplary damages.~~†~~

10 (3) Borrow money to effect the purposes of this
11 Article. Any notes or other evidence of indebtedness of the
12 Association not in default are legal investments for
13 domestic insurers and may be carried as admitted assets.

14 (4) Employ or retain such persons as are necessary to
15 handle the financial transactions of the Association, and
16 to perform such other functions as become necessary or
17 proper under this Article.

18 (5) Negotiate and contract with any liquidator,
19 rehabilitator, conservator, or ancillary receiver to carry
20 out the powers and duties of the Association.

21 (6) Take such legal action as may be necessary to
22 avoid payment of improper claims.

23 (7) Exercise, for the purposes of this Article and to
24 the extent approved by the Director, the powers of a
25 domestic life or health insurer, but in no case may the
26 Association issue insurance policies or annuity contracts

1 other than those issued to perform the contractual
2 obligations of the impaired or insolvent insurer.

3 (8) Exercise all the rights of the Director under
4 Section 193(4) of this Code with respect to covered
5 policies after the association becomes obligated by
6 statute.

7 (9) Request information from a person seeking coverage
8 from the Association in order to aid the Association in
9 determining its obligations under this Article with
10 respect to the person, and the person shall promptly comply
11 with the request.

12 (10) Take other necessary or appropriate action to
13 discharge its duties and obligations under this Article or
14 to exercise its powers under this Article.

15 (o) With respect to covered policies for which the
16 Association becomes obligated after an entry of an order of
17 liquidation or rehabilitation, the Association may elect to
18 succeed to the rights of the insolvent insurer arising after
19 the date of the order of liquidation or rehabilitation under
20 any contract of reinsurance to which the insolvent insurer was
21 a party, to the extent that such contract provides coverage for
22 losses occurring after the date of the order of liquidation or
23 rehabilitation. As a condition to making this election, the
24 Association must pay all unpaid premiums due under the contract
25 for coverage relating to periods before and after the date of
26 the order of liquidation or rehabilitation.

1 (p) A deposit in this State, held pursuant to law or
2 required by the Director for the benefit of creditors,
3 including policy owners, not turned over to the domiciliary
4 liquidator upon the entry of a final order of liquidation or
5 order approving a rehabilitation plan of an insurer domiciled
6 in this State or in a reciprocal state, pursuant to Article
7 XIII 1/2 of this Code, shall be promptly paid to the
8 Association. The Association shall be entitled to retain a
9 portion of any amount so paid to it equal to the percentage
10 determined by dividing the aggregate amount of policy owners'
11 claims related to that insolvency for which the Association has
12 provided statutory benefits by the aggregate amount of all
13 policy owners' claims in this State related to that insolvency
14 and shall remit to the domiciliary receiver the amount so paid
15 to the Association less the amount retained pursuant to this
16 subsection (13). Any amount so paid to the Association and
17 retained by it shall be treated as a distribution of estate
18 assets pursuant to applicable State receivership law dealing
19 with early access disbursements.

20 (q) The Board of Directors of the Association shall have
21 discretion and may exercise reasonable business judgment to
22 determine the means by which the Association is to provide the
23 benefits of this Article in an economical and efficient manner.

24 (r) Where the Association has arranged or offered to
25 provide the benefits of this Article to a covered person under
26 a plan or arrangement that fulfills the Association's

1 obligations under this Article, the person shall not be
2 entitled to benefits from the Association in addition to or
3 other than those provided under the plan or arrangement.

4 (s) Venue in a suit against the Association arising under
5 the Article shall be in Cook County. The Association shall not
6 be required to give any appeal bond in an appeal that relates
7 to a cause of action arising under this Article.

8 (t) The Association may join an organization of one or more
9 other State associations of similar purposes to further the
10 purposes and administer the powers and duties of the
11 Association.

12 (u) In carrying out its duties in connection with
13 guaranteeing, assuming, or reinsuring policies or contracts
14 under subsections (1) or (2), the Association may, subject to
15 approval of the receivership court, issue substitute coverage
16 for a policy or contract that provides an interest rate,
17 crediting rate, or similar factor determined by use of an index
18 or other external reference stated in the policy or contract
19 employed in calculating returns or changes in value by issuing
20 an alternative policy or contract in accordance with the
21 following provisions:

22 (1) in lieu of the index or other external reference
23 provided for in the original policy or contract, the
24 alternative policy or contract provides for (i) a fixed
25 interest rate, or (ii) payment of dividends with minimum
26 guarantees, or (iii) a different method for calculating

1 interest or changes in value;

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

6 (3) the alternative policy or contract is
7 substantially similar to the replaced policy or contract in
8 all other material terms.

9 (Source: P.A. 96-1450, eff. 8-20-10; revised 9-16-10.)

10 (215 ILCS 5/531.09) (from Ch. 73, par. 1065.80-9)

11 Sec. 531.09. Assessments.

12 (1) For the purpose of providing the funds necessary to
13 carry out the powers and duties of the Association, the board
14 of directors shall assess the member insurers, separately for
15 each account, at such times and for such amounts as the board
16 finds necessary. Assessments shall be due not less than 30 days
17 after written notice to the member insurers and shall accrue
18 interest from the due date at such adjusted rate as is
19 established under Section 6621 of Chapter 26 of the United
20 States Code and such interest shall be compounded daily.

21 (2) There shall be 2 classes of assessments, as follows:

22 (a) Class A assessments shall be made for the purpose
23 of meeting administrative costs and other general expenses
24 and examinations conducted under the authority of the
25 Director under subsection (5) of Section 531.12.

1 (b) Class B assessments shall be made to the extent
2 necessary to carry out the powers and duties of the
3 Association under Section 531.08 with regard to an impaired
4 or insolvent domestic insurer or insolvent foreign or alien
5 insurers.

6 (3) (a) The amount of any Class A assessment shall be
7 determined at the discretion of the board of directors and such
8 assessments shall be authorized and called on a non-pro rata
9 basis. The amount of any Class B assessment shall be allocated
10 for assessment purposes among the accounts and subaccounts
11 pursuant to an allocation formula which may be based on the
12 premiums or reserves of the impaired or insolvent insurer or
13 any other standard deemed by the board in its sole discretion
14 as being fair and reasonable under the circumstances.

15 (b) Class B assessments against member insurers for each
16 account and subaccount shall be in the proportion that the
17 premiums received on business in this State by each assessed
18 member insurer on policies or contracts covered by each account
19 or subaccount for the three most recent calendar years for
20 which information is available preceding the year in which the
21 insurer became impaired or insolvent, as the case may be, bears
22 to such premiums received on business in this State for such
23 calendar years by all assessed member insurers.

24 (c) Assessments for funds to meet the requirements of the
25 Association with respect to an impaired or insolvent insurer
26 shall not be made until necessary to implement the purposes of

1 this Article. Classification of assessments under subsection
2 (2) and computations of assessments under this subsection shall
3 be made with a reasonable degree of accuracy, recognizing that
4 exact determinations may not always be possible.

5 (4) The Association may abate or defer, in whole or in
6 part, the assessment of a member insurer if, in the opinion of
7 the board, payment of the assessment would endanger the ability
8 of the member insurer to fulfill its contractual obligations.
9 In the event an assessment against a member insurer is abated
10 or deferred in whole or in part the amount by which the
11 assessment is abated or deferred may be assessed against the
12 other member insurers in a manner consistent with the basis for
13 assessments set forth in this Section. Once the conditions that
14 caused a deferral have been removed or rectified, the member
15 insurer shall pay all assessments that were deferred pursuant
16 to a repayment plan approved by the Association.

17 (5) (a) (i) Subject to the provisions of subparagraph (ii)
18 of this paragraph, the total of all assessments authorized by
19 the Association with respect to a member insurer for each
20 subaccount of the life insurance and annuity account and for
21 the health account shall not in one calendar year exceed 2% of
22 that member insurer's average annual premiums received in this
23 State on the policies and contracts covered by the subaccount
24 or account during the 3 calendar years preceding the year in
25 which the insurer became an impaired or insolvent insurer.

26 (ii) If 2 or more assessments are authorized in one

1 calendar year with respect to insurers that become impaired or
2 insolvent in different calendar years, the average annual
3 premiums for purposes of the aggregate assessment percentage
4 limitation referenced in subparagraph (a) of this paragraph
5 shall be equal and limited to the higher of the 3-year average
6 annual premiums for the applicable subaccount or account as
7 calculated pursuant to this Section.

8 (iii) If the maximum assessment, together with the other
9 assets of the Association in an account, does not provide in
10 one year in either account an amount sufficient to carry out
11 the responsibilities of the Association, the necessary
12 additional funds shall be assessed as soon thereafter as
13 permitted by this Article.

14 (b) The board may provide in the plan of operation a method
15 of allocating funds among claims, whether relating to one or
16 more impaired or insolvent insurers, when the maximum
17 assessment will be insufficient to cover anticipated claims.

18 (c) If the maximum assessment for a subaccount of the life
19 insurance and annuity account in one year does not provide an
20 amount sufficient to carry out the responsibilities of the
21 Association, then pursuant to paragraph (b) of subsection (3),
22 the board shall assess the other subaccounts of the life and
23 annuity account for the necessary additional amount, subject to
24 the maximum stated in paragraph (a) of this subsection.

25 (6) The board may, by an equitable method as established in
26 the plan of operation, refund to member insurers, in proportion

1 to the contribution of each insurer to that account, the amount
2 by which the assets of the account exceed the amount the board
3 finds is necessary to carry out during the coming year the
4 obligations of the Association with regard to that account,
5 including assets accruing from net realized gains and income
6 from investments. A reasonable amount may be retained in any
7 account to provide funds for the continuing expenses of the
8 Association and for future losses.

9 (7) An assessment is deemed to occur on the date upon which
10 the board votes such assessment. The board may defer calling
11 the payment of the assessment or may call for payment in one or
12 more installments.

13 (8) It is proper for any member insurer, in determining its
14 premium rates and policyowner dividends as to any kind of
15 insurance within the scope of this Article, to consider the
16 amount reasonably necessary to meet its assessment obligations
17 under this Article.

18 (9) The Association must issue to each insurer paying a
19 Class B assessment under this Article a certificate of
20 contribution, in a form acceptable to the Director, for the
21 amount of the assessment so paid. All outstanding certificates
22 are of equal dignity and priority without reference to amounts
23 or dates of issue. A certificate of contribution may be shown
24 by the insurer in its financial statement as an asset in such
25 form and for such amount, if any, and period of time as the
26 Director may approve, provided the insurer shall in any event

1 at its option have the right to show a certificate of
2 contribution as an admitted asset at percentages of the
3 original face amount for calendar years as follows:

4 100% for the calendar year after the year of issuance;

5 80% for the second calendar year after the year of
6 issuance;

7 60% for the third calendar year after the year of issuance;

8 40% for the fourth calendar year after the year of
9 issuance;

10 20% for the fifth calendar year after the year of issuance.

11 (10) The Association may request information of member
12 insurers in order to aid in the exercise of its power under
13 this Section and member insurers shall promptly comply with a
14 request.

15 (Source: P.A. 95-86, eff. 9-25-07 (changed from 1-1-08 by P.A.
16 95-632); 96-1450, eff. 8-20-10.)

17 (215 ILCS 5/531.14) (from Ch. 73, par. 1065.80-14)

18 Sec. 531.14. Miscellaneous Provisions.

19 (1) Nothing in this Article may be construed to reduce the
20 liability for unpaid assessments of the insured of an impaired
21 or insolvent insurer operating under a plan with assessment
22 liability.

23 (2) Records must be kept of all negotiations and meetings
24 in which the Association or its representatives are involved to
25 discuss the activities of the Association in carrying out its

1 powers and duties under Section 531.08. Records of such
2 negotiations or meetings may be made public only upon the
3 termination of a liquidation, rehabilitation, or conservation
4 proceeding involving the impaired or insolvent insurer, upon
5 the termination of the impairment or insolvency of the insurer,
6 or upon the order of a court of competent jurisdiction. Nothing
7 in this paragraph (2) limits the duty of the Association to
8 render a report of its activities under Section 531.15.

9 (3) For the purpose of carrying out its obligations under
10 this Article, the Association is deemed to be a creditor of the
11 impaired or insolvent insurer to the extent of assets
12 attributable to covered policies reduced by any amounts to
13 which the Association is entitled as subrogee (under paragraph
14 (8) of Section 531.08). All assets of the impaired or insolvent
15 insurer attributable to covered policies must be used to
16 continue all covered policies and pay all contractual
17 obligations of the impaired insurer as required by this
18 Article. "Assets attributable to covered policies", as used in
19 this paragraph (3), is that proportion of the assets which the
20 reserves that should have been established for such policies
21 bear to the reserve that should have been established for all
22 policies of insurance written by the impaired or insolvent
23 insurer.

24 (4) (a) Prior to the termination of any liquidation,
25 rehabilitation, or conservation proceeding, the court may take
26 into consideration the contributions of the respective

1 parties, including the Association, the shareholders and
2 policyowners of the impaired or insolvent insurer, and any
3 other party with a bona fide interest, in making an equitable
4 distribution of the ownership rights of such impaired or
5 insolvent insurer. In such a determination, consideration must
6 be given to the welfare of the policyholders of the continuing
7 or successor insurer.

8 (b) No distribution to stockholders, if any, of an impaired
9 or insolvent insurer may be made until and unless the total
10 amount of valid claims of the Association for funds expended,
11 with interest, in carrying out its powers and duties under
12 Section 531.08, with respect to such insurer have been fully
13 recovered by the Association.

14 (5) (a) If an order for liquidation or rehabilitation of an
15 insurer domiciled in this State has been entered, the receiver
16 appointed under such order has a right to recover on behalf of
17 the insurer, from any affiliate that controlled it, the amount
18 of distributions, other than stock dividends paid by the
19 insurer on its capital stock, made at any time during the 5
20 years preceding the petition for liquidation or rehabilitation
21 subject to the limitations of paragraphs (b) to (d).

22 (b) No such dividend is recoverable if the insurer shows
23 that when paid the distribution was lawful and reasonable, and
24 that the insurer did not know and could not reasonably have
25 known that the distribution might adversely affect the ability
26 of the insurer to fulfill its contractual obligations.

1 (c) Any person who as an affiliate that controlled the
2 insurer at the time the distributions were paid is liable up to
3 the amount of distributions he received. Any person who was an
4 affiliate that controlled the insurer at the time the
5 distributions were declared, is liable up to the amount of
6 distributions he would have received if they had been paid
7 immediately. If 2 persons are liable with respect to the same
8 distributions, they are jointly and severally liable.

9 (d) The maximum amount recoverable under subsection (5) of
10 this Section is the amount needed in excess of all other
11 available assets of the insolvent insurer to pay the
12 contractual obligations of the insolvent insurer.

13 (e) If any person liable under paragraph (c) of subsection
14 (5) of this Section is insolvent, all its affiliates that
15 controlled it at the time the dividend was paid are jointly and
16 severally liable for any resulting deficiency in the amount
17 recovered from the insolvent affiliate.

18 (6) As a creditor of the impaired or insolvent insurer as
19 established in subsection (3) of this Section and consistent
20 with subsection (2) of Section 205 of this Code, the
21 Association and other similar associations shall be entitled to
22 receive a disbursement of assets out of the marshaled assets,
23 from time to time as the assets become available to reimburse
24 it, as a credit against contractual obligations under this
25 Article. If the liquidator has not, within 120 days after a
26 final determination of insolvency of an insurer by the

1 receivership court, made an application to the court for the
2 approval of a proposal to disburse assets out of marshaled
3 assets to guaranty associations having obligations because of
4 the insolvency, then the Association shall be entitled to make
5 application to the receivership court for approval of its own
6 proposal to disburse these assets.

7 (Source: P.A. 96-1450, eff. 8-20-10.)