

§4605-A. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2005, c. 346, §5 (NEW); PL 2005, c. 346, §16 (AFF).]

1. Account. "Account" means any one of the 3 accounts created under section 4606. [PL 2005, c. 346, §5 (NEW); PL 2005, c. 346, §16 (AFF).]

2. Association. "Association" means the Maine Life and Health Insurance Guaranty Association created under section 4606. [PL 2005, c. 346, §5 (NEW); PL 2005, c. 346, §16 (AFF).]

3. Authorized assessment. "Authorized assessment" or "authorized" when used in the context of assessments means that a resolution by the board of directors of the association has been passed whereby an assessment will be called immediately or in the future from member insurers for a specified amount; an assessment is authorized when the resolution is passed. [PL 2005, c. 346, §5 (NEW); PL 2005, c. 346, §16 (AFF).]

4. Benefit plan. "Benefit plan" means a specific employee, union or association of natural persons benefit plan. [PL 2005, c. 346, §5 (NEW); PL 2005, c. 346, §16 (AFF).]

5. Board of directors. "Board of directors" means the board of directors of the association. [PL 2005, c. 346, §5 (NEW); PL 2005, c. 346, §16 (AFF).]

6. Called assessment. "Called assessment" or "called" when used in the context of assessments means that a notice has been issued by the association to member insurers requiring that an authorized assessment be paid within the time frame set forth within the notice; an authorized assessment becomes a called assessment when notice is mailed by the association to member insurers. [PL 2005, c. 346, §5 (NEW); PL 2005, c. 346, §16 (AFF).]

7. Contractual obligation. "Contractual obligation" means an obligation under a policy or contract or certificate under a group policy or contract, or portion thereof, for which coverage is provided under section 4603. [PL 2005, c. 346, §5 (NEW); PL 2005, c. 346, §16 (AFF).]

8. Covered policy or covered policy or contract. "Covered policy" or "covered policy or contract" means a policy or contract or portion of a policy or contract for which coverage is provided under section 4603. [PL 2017, c. 382, §13 (AMD).]

9. Extra-contractual claims. "Extra-contractual claims" includes, for example, claims relating to bad faith in the payment of claims, punitive or exemplary damages or attorney's fees and costs. [PL 2005, c. 346, §5 (NEW); PL 2005, c. 346, §16 (AFF).]

10. Impaired insurer. "Impaired insurer" means a member insurer that, after the effective date of this section, is not an insolvent insurer and is placed under an order of rehabilitation or conservation by a court of competent jurisdiction. [PL 2005, c. 346, §5 (NEW); PL 2005, c. 346, §16 (AFF).]

11. Insolvent insurer. "Insolvent insurer" means a member insurer that, after the effective date of this section, is placed under an order of liquidation by a court of competent jurisdiction with a finding of insolvency. [PL 2005, c. 346, §5 (NEW); PL 2005, c. 346, §16 (AFF).]

12. Member insurer. "Member insurer" means an insurer or health maintenance organization that is licensed or that holds a certificate of authority to transact in this State any kind of insurance, annuity or health maintenance organization business for which coverage is provided under section 4603 and

includes an insurer or health maintenance organization whose license or certificate of authority in this State may have been suspended, revoked, not renewed or voluntarily withdrawn, but does not include:

- A. A hospital or medical service organization, whether profit or nonprofit; [PL 2005, c. 346, §5 (NEW); PL 2005, c. 346, §16 (AFF).]
 - B. [PL 2017, c. 382, §13 (RP).]
 - C. A fraternal benefit society; [PL 2005, c. 346, §5 (NEW); PL 2005, c. 346, §16 (AFF).]
 - D. A mandatory state pooling plan; [PL 2005, c. 346, §5 (NEW); PL 2005, c. 346, §16 (AFF).]
 - E. A mutual assessment company or other person that operates on an assessment basis; [PL 2005, c. 346, §5 (NEW); PL 2005, c. 346, §16 (AFF).]
 - F. An insurance exchange; [PL 2005, c. 346, §5 (NEW); PL 2005, c. 346, §16 (AFF).]
 - G. An organization that has a certificate or license limited to the issuance of charitable gift annuities under this Title; or [PL 2005, c. 346, §5 (NEW); PL 2005, c. 346, §16 (AFF).]
 - H. An entity similar to any of those listed in this subsection. [PL 2005, c. 346, §5 (NEW); PL 2005, c. 346, §16 (AFF).]
- [PL 2017, c. 382, §13 (AMD).]

13. Moody's Corporate Bond Yield Average. "Moody's Corporate Bond Yield Average" means the monthly average corporates as published by Moody's Investors Service, Inc., or any successor to that index.

[PL 2005, c. 346, §5 (NEW); PL 2005, c. 346, §16 (AFF).]

14. Owner. "Owner" with respect to a policy or contract and "policyholder," "policy owner" and "contract owner" mean the person who is identified as the legal owner under the terms of the policy or contract or who is otherwise vested with legal title to the policy or contract through a valid assignment completed in accordance with the terms of the policy or contract and properly recorded as the owner on the books of the insurer. "Owner," "policyholder," "contract owner" and "policy owner" do not include persons with a mere beneficial interest in a policy or contract.

[PL 2017, c. 382, §13 (AMD).]

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

[PL 2005, c. 346, §5 (NEW); PL 2005, c. 346, §16 (AFF).]

16. Premiums. "Premiums" means amounts or considerations by whatever name called received on covered policies or contracts less returned premiums, considerations and deposits and less dividends and experience credits. "Premiums" does not include amounts or considerations received for policies or contracts or for the portions of policies or contracts for which coverage is not provided under section 4603, except that assessable premiums may not be reduced on account of the provisions of section 4603 relating to interest limitations and relating to limitations with respect to one individual, one participant and one contract owner. "Premiums" does not include:

- A. Premiums on an unallocated annuity contract; or [PL 2005, c. 346, §5 (NEW); PL 2005, c. 346, §16 (AFF).]
 - B. With respect to multiple nongroup policies of life insurance owned by one owner, whether the policy owner is an individual, firm, corporation or other person, and whether the persons insured are officers, managers, employees or other persons, premiums in excess of \$5,000,000 with respect to these policies or contracts, regardless of the number of policies or contracts held by the owner. [PL 2005, c. 346, §5 (NEW); PL 2005, c. 346, §16 (AFF).]
- [PL 2005, c. 346, §5 (NEW); PL 2005, c. 346, §16 (AFF).]

17. Principal place of business. "Principal place of business" has the following meaning.

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

- (1) The state in which the primary executive and administrative headquarters of the entity is located;
- (2) The state in which the principal office of the chief executive officer of the entity is located;
- (3) The state in which the board of directors of the entity or similar governing body of the entity conducts the majority of its meetings;
- (4) The state in which the executive or management committee of the board of directors of the entity or similar governing body of the entity conducts the majority of its meetings;
- (5) The state from which the management of the overall operations of the entity is directed; and
- (6) In the case of a benefit plan sponsored by affiliated companies comprising a consolidated corporation, the state in which the holding company or controlling affiliate has its principal place of business as determined using the factors listed in subparagraphs (1) to (5). However, in the case of a plan sponsor, if more than 50% of the participants in the benefit plan are employed in a single state, that state is deemed to be the principal place of business of the plan sponsor. [PL 2005, c. 346, §5 (NEW); PL 2005, c. 346, §16 (AFF).]

B. The principal place of business of a plan sponsor of a benefit plan is deemed to be the principal place of business of the association, committee, joint board of trustees or other similar group of representatives of the parties who establish or maintain the benefit plan, which, in lieu of a specific or clear designation of a principal place of business, is deemed to be the principal place of business of the employer or employee organization that has the largest investment in the benefit plan in question. [PL 2005, c. 346, §5 (NEW); PL 2005, c. 346, §16 (AFF).]

[PL 2005, c. 346, §5 (NEW); PL 2005, c. 346, §16 (AFF).]

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

[PL 2005, c. 346, §5 (NEW); PL 2005, c. 346, §16 (AFF).]

19. Resident. "Resident" means a person to whom a contractual obligation is owed and who resides in this State on the date of entry of a court order that determines a member insurer to be an impaired insurer or a court order that determines a member insurer to be an insolvent insurer, whichever occurs first. A person may be a resident of only one state, which in the case of a person other than a natural person is its principal place of business. Citizens of the United States that are either residents of foreign countries or residents of United States possessions, territories or protectorates that do not have an association similar to the association created by this chapter are deemed residents of the state of domicile of the insurer that issued the policies or contracts.

[PL 2005, c. 346, §5 (NEW); PL 2005, c. 346, §16 (AFF).]

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

[PL 2005, c. 346, §5 (NEW); PL 2005, c. 346, §16 (AFF).]

21. State. "State" means a state, the District of Columbia, Puerto Rico or a United States possession, territory or protectorate.

[PL 2005, c. 346, §5 (NEW); PL 2005, c. 346, §16 (AFF).]

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

[PL 2005, c. 346, §5 (NEW); PL 2005, c. 346, §16 (AFF).]

23. Unallocated annuity contract. "Unallocated annuity contract" means an annuity contract or group annuity certificate that is not issued to and owned by an individual, except to the extent of any annuity benefits guaranteed to an individual by an insurer under the contract or certificate.

[PL 2005, c. 346, §5 (NEW); PL 2005, c. 346, §16 (AFF).]

SECTION HISTORY

PL 2005, c. 346, §5 (NEW). PL 2005, c. 346, §16 (AFF). PL 2017, c. 382, §13 (AMD).

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