

Enrolled
Senate Bill 1002

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CHAPTER

AN ACT

Relating to annuities; amending ORS 734.810; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 734.810 is amended to read:

734.810. In addition to the other powers and duties enumerated in ORS 734.750 to 734.890:

(1) If a domestic insurer is an impaired insurer, the Oregon Life and Health Insurance Guaranty Association may, subject to any conditions imposed by the association and approved by the impaired insurer and the Director of the Department of Consumer and Business Services, other than those which impair the contractual obligations of the impaired insurer:

(a) Guarantee or reinsure, or cause to be guaranteed, assumed, or reinsured, any or all of the covered policies of the impaired insurer.

(b) Provide such money, pledges, notes, guarantees or other means as are proper to implement paragraph (a) of this subsection and assure payment of the contractual obligations of the impaired insurer pending action under paragraph (a) of this subsection.

(c) Loan money to the impaired insurer.

(2) If a member insurer is an insolvent insurer, the association shall, subject to the approval of the director:

(a) Guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured, the covered policies of the insolvent insurer;

(b) Assure payment of the contractual obligations of the insolvent insurer; and

(c) Provide such money, pledges, notes, guarantees or other means as are reasonably necessary to discharge such duties.

(3)(a) In carrying out its duties under subsection (2) of this section, **the association may impose** permanent policy liens or contract liens [*may be imposed*] in connection with any guaranteed, assumption or reinsurance agreement, if the court **considering the lien** finds that the amounts which can be assessed under ORS 734.750 to 734.890 are less than the amounts needed to assure full and prompt performance of the insolvent insurer's contractual obligations or that the economic or financial conditions affecting member insurers are sufficiently adverse to render the imposition of policy or contract liens to be in the public interest, and approves the specific policy liens or contract liens to be used.

(b) Before being obligated under subsection (2) of this section the association may request that there be imposed temporary moratoriums or liens on payments of cash values and policy loans, in

addition to any contractual provisions for deferral of cash or policy loan values, and such temporary moratoriums and liens may be imposed if they are approved by the court.

(4) If the association fails to act as required in subsection (2) of this section within a reasonable time, the director shall have the powers and duties of the association under ORS 734.750 to 734.890 with respect to insolvent insurers.

(5) The association may render assistance and advice to the director, upon request of the director, concerning rehabilitation, payment of claims, continuance of coverage or the performance of other contractual obligations of any impaired or insolvent insurer.

(6) The association shall have standing to appear before any court in this state having jurisdiction over an impaired or insolvent insurer concerning which the association is or may become obligated under ORS 734.750 to 734.890. Such standing shall extend to all matters germane to the powers and duties of the association including, but not limited to, proposals for reinsuring or guaranteeing the covered policies of the impaired or insolvent insurer and the determination of the covered policies and contractual obligations. The association may also appear or intervene before a court in another state with jurisdiction over an impaired or insolvent insurer for which the association is or may become obligated or with jurisdiction over a third party against whom the association may have rights through subrogation of the policyholders of the insurer.

(7)(a) Any person receiving benefits under ORS 734.750 to 734.890 shall be considered to have assigned the rights under, and any causes of action relating to, the covered policy to the association to the extent of the benefits received because of ORS 734.750 to 734.890, whether the benefits are payments of or on account of contractual obligations or continuation of coverage. The association may require an assignment to it of such rights by any payee, policy or contract owner, beneficiary, insured or annuitant as a condition precedent to the receipt of any rights or benefits conferred by ORS 734.750 to 734.890 upon such person. The association shall be subrogated to these rights against the assets of any insolvent insurer.

(b) The subrogation rights of the association under this subsection shall have the same priority against the assets of the insolvent insurer as that possessed by the person entitled to receive benefits under ORS 734.750 to 734.890.

(8) The contractual obligations of the insolvent insurer for which the association becomes or may become liable shall not exceed the lesser of:

(a) The contractual obligations for which the insurer is liable or would have been liable if it were not an insolvent insurer, unless such obligations are reduced as permitted by subsection (3) of this section; or

(b) The applicable following benefits, subject to subsection (9) of this section:

(A) \$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, with respect to any one life, regardless of the number of policies or contracts.

(B) \$100,000 in health insurance benefits, including any net cash surrender and net cash withdrawal values, with respect to any one life, regardless of the number of policies or contracts.

(C) [~~\$100,000~~] **\$250,000** in the present value of annuity benefits, including net cash surrender and net cash withdrawal values, with respect to any one life, regardless of the number of policies or contracts.

(D) [~~\$100,000~~] **\$250,000** in present value annuity benefits, in the aggregate, including net cash surrender and net cash withdrawal values, with respect to each individual participating in a governmental retirement plan established under section 401, 403(b) or 457 of the United States Internal Revenue Code covered by an unallocated annuity contract or the beneficiaries of each such individual if deceased.

(9) The association shall not be liable for more than \$300,000 in the aggregate with respect to any one individual under subsection (8)(b) of this section.

(10) Subject to the applicable limitation with respect to any one individual under subsections (8) and (9) of this section, the benefits for which the association may become liable with respect to any one owner of policies or contracts other than an unallocated annuity contract to which subsection

(8)(b)(D) of this section applies, whether the owner is an individual, corporation or other person, shall not exceed \$5 million in benefits in the aggregate for all persons covered by such policies or contracts, regardless of the number of the policies and contracts held by the owner.

(11) The association may:

(a) Enter into such contracts as are necessary or proper to carry out the provisions and purposes of ORS 734.750 to 734.890.

(b) Sue or be sued, including taking any legal actions necessary or proper for recovery of any unpaid assessments under ORS 734.815.

(c) Borrow money to effect the purposes of ORS 734.750 to 734.890. Any notes or other evidence of indebtedness of the association not in default shall be legal investments for domestic insurers and may be carried as admitted assets.

(d) Employ or retain such persons as are necessary to handle the financial transactions of the association, and to perform such other functions as become necessary or proper under ORS 734.750 to 734.890.

(e) Negotiate and contract with any liquidator, rehabilitator, conservator or ancillary receiver to carry out the powers and duties of the association.

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

(g) Exercise, for the purposes of ORS 734.750 to 734.890 and to the extent approved by the director, the powers of a domestic life or health insurer, but in no case may the association issue policies other than those issued to perform the contractual obligations of the impaired or insolvent insurer.

SECTION 2. This 2010 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect on its passage.

Passed by Senate February 5, 2010

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Secretary of Senate

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President of Senate

Passed by House February 19, 2010

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Speaker of House

Received by Governor:

.....M.,....., 2010

Approved:

.....M.,....., 2010

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2010

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Secretary of State