

**THE INSURANCE CODE OF 1956 (EXCERPT)**  
**Act 218 of 1956**

**500.8103 Definitions.**

Sec. 8103. As used in this chapter:

- (a) "Ancillary state" means any state other than a domiciliary state.
- (b) "Creditor" is a person having a claim against the insurer, whether matured or unmatured, liquidated or unliquidated, secured or unsecured, absolute, fixed, or contingent.
- (c) "Delinquency proceeding" means a proceeding instituted against an insurer for the purpose of liquidating, rehabilitating, reorganizing, or conserving such insurer, and a summary proceeding under section 8109 or 8110. "Formal delinquency proceeding" means any liquidation or rehabilitation proceeding.
- (d) "Domiciliary state" means the state in which an insurer is incorporated or organized, or, in the case of an alien insurer, its state of entry.
- (e) "Fair consideration" is given for property or an obligation pursuant to either of the following:
  - (i) If in exchange for the property or obligation, as a fair equivalent of the property or obligation and in good faith, property is conveyed or services are rendered or an obligation is incurred or an antecedent debt is satisfied.
  - (ii) If the property or obligation is received in good faith to secure a present advance or antecedent debt in an amount not disproportionately small as compared to the value of the property or obligation obtained.
- (f) "Foreign country" means any other jurisdiction not in any state.
- (g) "General assets" means all property, real, personal, or otherwise, not specifically mortgaged, pledged, deposited, or otherwise encumbered, for the security or benefit of specified persons or classes of persons. As to specifically encumbered property, "general assets" includes all property or its proceeds in excess of the amount necessary to discharge the sum or sums secured by the property. Assets held in trust and on deposit for the security or benefit of all policyholders or all policyholders and creditors, in more than a single state, shall be treated as general assets. Amounts due an insolvent insurer as indemnification from the catastrophic claims association created in section 3104 shall not be considered to be assets of the receivership, but shall be paid directly to the property and casualty guaranty association under section 7935.
- (h) "Guaranty association" means the Michigan property and casualty guaranty association, the worker's compensation self-insurance security fund, the Michigan life and health insurance guaranty association, and any other similar entity now or hereafter created by the legislature of this state for the payment of claims of insolvent insurers. "Foreign guaranty association" means any similar entities now in existence or hereafter created by the legislature of any other state.
  - (i) "Insolvency" or "insolvent" means:
    - (i) For an insurer issuing only assessable fire insurance policies:
      - (A) The inability to pay an obligation within 30 days after it becomes payable.
      - (B) If an assessment is made within 30 days after the date in subparagraph (i)(A), the inability to pay an obligation 30 days following the date specified in the first assessment notice issued after the date of loss.
    - (ii) For an insurer, other than an insurer under subparagraph (i), the inability to pay its obligations when they are due or when admitted assets do not exceed liabilities plus the greater of either of the following:
      - (A) Any capital and surplus required by law for its organization.
      - (B) The total par or stated value of its authorized and issued capital stock.
    - (iii) For purposes of this subdivision, "liabilities" shall include, but not be limited to, reserves required by statute or by rule or specific requirements imposed by the commissioner upon an insurer at the time of admission or subsequent to admission.
- (j) "Preferred claim" means a claim that receives priority of payment from the general assets of the insurer under this chapter.
- (k) "Receiver" means receiver, liquidator, rehabilitator, or conservator as the context requires.
- (l) "Reciprocal state" means a state other than this state in which all of the following occurs:
  - (i) In substance and effect sections 8118(1), 8152, 8153, 8155, 8156, and 8157 are in force.
  - (ii) Provisions requiring that the commissioner or equivalent official be the receiver of a delinquent insurer are in force.
  - (iii) Some provision for the avoidance of fraudulent conveyances and preferential transfers are in force.
- (m) "Secured claim" means a claim secured by mortgage, trust deed, pledge, deposit as security, escrow, or otherwise, but not including a special deposit claim or claim against general assets. The term also includes claims that have become liens upon specific assets by reason of judicial process.
- (n) "Special deposit claim" means a claim secured by a deposit made pursuant to statute for the security or benefit of a limited class or classes of persons, but not including a claim secured by general assets.

- (o) "State" means a state, district, or territory of the United States.
- (p) "Transacting business" includes any of the following acts, whether effected by mail or otherwise:
  - (i) The issuance or delivery of contracts of insurance to persons resident in this state.
  - (ii) The solicitation of applications for insurance contracts or other negotiations preliminary to the execution of insurance contracts.
  - (iii) The collection of premiums, membership fees, assessments, or other consideration for insurance contracts.
  - (iv) The transaction of matters subsequent to execution of insurance contracts and arising out of them.
  - (v) Operating under a certificate of authority, as an insurer, issued by the commissioner.
- (q) "Transfer" shall include the sale and every other and different mode, direct or indirect, of disposing of or of parting with property or with an interest in property or with the possession of property or of fixing a lien upon property or upon an interest in property, absolutely or conditionally, voluntarily, by or without judicial proceedings. The retention of a security title to property delivered to a debtor shall be considered a transfer suffered by the debtor.
- (r) "Trusteed assets" means the assets of an alien insurer and U.S. branch domiciled in this state and maintained in trust pursuant to section 411(4).

**History:** Add. 1989, Act 302, Imd. Eff. Jan. 3, 1990;—Am. 1994, Act 227, Imd. Eff. June 27, 1994.

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