

## **IC 27-1-12.7**

### **Chapter 12.7. Funding Agreements**

#### **IC 27-1-12.7-1**

##### **"Funding agreement"**

Sec. 1. As used in this chapter, "funding agreement" means an agreement that:

- (1) is issued by a life insurance company to a holder;
- (2) authorizes a life insurance company to accept funds; and
- (3) provides for an accumulation of the funds for the purpose of making one (1) or more payments at future dates in amounts that are not based on mortality or morbidity contingencies of the holder of the funding agreement.

*As added by P.L.178-2003, SEC.18.*

#### **IC 27-1-12.7-2**

##### **"Holder"**

Sec. 2. As used in this chapter, "holder" means a person described in section 5 of this chapter that is issued a funding agreement by a life insurance company.

*As added by P.L.178-2003, SEC.18.*

#### **IC 27-1-12.7-3**

##### **"Life insurance company"**

Sec. 3. As used in this chapter, "life insurance company" means a life insurance company authorized to issue a product described in Class 1(c) of IC 27-1-5-1.

*As added by P.L.178-2003, SEC.18.*

#### **IC 27-1-12.7-4**

##### **"Optional modes of settlement"**

Sec. 4. As used in this chapter, "optional modes of settlement" means the manner in which the funding agreement is structured to repay interest and principal to the holder.

*As added by P.L.178-2003, SEC.18.*

#### **IC 27-1-12.7-5**

##### **Issuance or issuance for delivery of funding agreements**

Sec. 5. A life insurance company may issue or issue for delivery in Indiana a funding agreement to the following:

- (1) A person authorized by a state or foreign country to engage in an insurance business or a subsidiary of an insurance business.
- (2) A person who uses the funding agreement for the purpose of funding:
  - (A) benefits under an employee benefit plan (as defined in the federal Employee Retirement Security Act of 1974, 29 U.S.C. 1001 et seq.);
  - (B) the activities of a nonprofit organization exempt from federal income taxation under Section 501(c)(3) of the

Internal Revenue Code or a similar nonprofit organization domiciled in a foreign country;

(C) a program of:

- (i) the United States government;
- (ii) a state government;
- (iii) a political subdivision;
- (iv) a foreign country; or
- (v) an agency or instrumentality of the United States or a state government, a political subdivision, or a foreign country;

(D) an agreement providing for periodic payments in satisfaction of a claim;

(E) a program of an institution with assets exceeding twenty-five million dollars (\$25,000,000);

(F) a program in which a business entity, including a trust:

- (i) purchases and holds funding agreements; and
- (ii) issues securities by using the funding agreement to finance or collateralize the securities; or

(G) any program or activity substantially similar to a program or an activity described in clauses (A) through (F) that is first authorized by the commissioner.

*As added by P.L.178-2003, SEC.18.*

#### **IC 27-1-12.7-6**

##### **Funding agreements interpretation**

Sec. 6. The issuance of a funding agreement:

- (1) constitutes an activity necessary, convenient, or expedient to the business of a life insurance company under IC 27-1-7-2;
- (2) is not insurance under IC 27-1-5-1;
- (3) is not a security (as defined in IC 23-19-1-2(28)); and
- (4) does not constitute gross premium for taxation purposes under IC 27-1-18-2.

*As added by P.L.178-2003, SEC.18. Amended by P.L.27-2007, SEC.25.*

#### **IC 27-1-12.7-7**

##### **Guaranteed or credited amounts under funding agreements**

Sec. 7. An amount may not be guaranteed or credited under a funding agreement except:

- (1) upon reasonable assumptions as to investment income and expenses; and
- (2) on a basis equitable to all holders of funding agreements of a given class.

*As added by P.L.178-2003, SEC.18.*

#### **IC 27-1-12.7-8**

##### **Segregated asset accounts**

Sec. 8. An amount paid to a life insurance company and proceeds applied to amounts paid under optional modes of settlement under a funding agreement may be allocated by the insurer to one (1) or more

segregated asset accounts in the manner described in Class 1(c) of IC 27-1-5-1.

*As added by P.L.178-2003, SEC.18.*

#### **IC 27-1-12.7-9**

##### **Commissioner; conditions; rules**

Sec. 9. The commissioner may establish reasonable conditions or adopt rules under IC 4-22-2 regarding:

- (1) reserve amounts to be maintained by a life insurance company for funding agreements;
- (2) accounting and reporting of funds credited under funding agreements; and
- (3) other matters regarding funding agreements the commissioner considers necessary, proper, and advisable.

*As added by P.L.178-2003, SEC.18.*

#### **IC 27-1-12.7-10**

##### **Regulation; funding agreement not a covered policy; claim for payments; assets in segregated asset account**

Sec. 10. Notwithstanding any other provision of law:

- (1) the commissioner has the sole authority to regulate the issuance and sale of funding agreements;
- (2) a funding agreement is not considered a covered policy under IC 27-8-8-2.3(d);
- (3) a claim for payments under a funding agreement must be treated as a loss claim described in Class 2 of IC 27-9-3-40; and
- (4) assets supporting a funding agreement in a segregated asset account under section 8 of this chapter are subject to IC 27-9-3-40.5 and Class 1(c) of IC 27-1-5-1.

*As added by P.L.178-2003, SEC.18. Amended by P.L.193-2006, SEC.2; P.L.173-2007, SEC.8; P.L.1-2010, SEC.109.*