

LEGISLATIVE BILL 217

Approved by the Governor May 22, 1975

Introduced by Duis, 39

AN ACT relating to insurance; to adopt the Nebraska Life and Health Insurance Guaranty Association Act; and to provide severability.
Be it enacted by the people of the State of Nebraska,

Section 1. The purpose of this act is to protect policyowners, insureds, beneficiaries, annuitants, payees, and assignees of life insurance policies, health insurance policies, annuity contracts, and supplemental contracts, subject to certain limitations, against failure in the performance of contractual obligations due to the impairment of the insurer issuing such policies or contracts. To provide this protection, (1) an association of insurers is created to enable the guaranty of payment of benefits and of continuation of coverages, (2) members of the association are subject to assessment to provide funds to carry out the purposes of this act, and (3) the association is authorized to assist the Director of Insurance, in the prescribed manner, in the detection and prevention of insurer impairments.

Sec. 2. As used in this act, unless the context otherwise requires:

(1) Account shall mean either of the three accounts created pursuant to the provisions of section 5 of this act;

(2) Association shall mean the Nebraska Life and Health Insurance Guaranty Association created by section 5 of this act;

(3) Director shall mean the Director of Insurance;

(4) Contractual obligation shall mean any obligation under covered policies;

(5) Covered policy shall mean any policy or contract specified in section 3 of this act;

(6) Impaired insurer shall mean (a) an insurer which, after the effective date of this act, becomes insolvent and is placed under a final order of liquidation, rehabilitation, or conservation by a court of competent jurisdiction, or (b) an insurer deemed by

the director, after the effective date of this act, to be unable or potentially unable to fulfill its contractual obligations;

(7) Member insurer shall mean any person authorized to transact in this state any kind of insurance business specified in section 3 of this act;

(8) Premiums shall mean direct gross insurance premiums and annuity considerations written on covered policies, less return premiums and considerations thereon and dividends paid or credited to policyholders on such direct business. Premiums shall not include premiums and considerations on contracts between insurers and reinsurers. As used in section 8 of this act, premiums are those for the calendar year preceding the determination of impairment;

(9) Person shall mean any individual, corporation, partnership, association, or voluntary organization; and

(10) Resident shall mean any person who resides in this state at the time the impairment is determined and to whom contractual obligations are owed.

Sec. 3. (1) This act shall apply to all direct life insurance policies, health insurance policies, annuity contracts, and contracts supplemental to life and health insurance policies and annuity contracts issued anywhere by persons authorized to transact insurance or act as an insurer in this state at any time.

(2) This act shall not apply to:

(a) Any such policies or contracts, or any part of such policies or contracts, under which the risk is borne by the policyholder;

(b) Any such policy or contract or part thereof assumed by the impaired insurer under a contract of reinsurance, other than reinsurance for which assumption certificates have been issued;

(c) Any such policy or contract issued by assessment associations operating under the provisions of Chapter 44, article 8, Reissue Revised Statutes of Nebraska, 1943, or unincorporated mutuals, or health maintenance organizations unless such organizations are controlled by an insurance company licensed by the Department of Insurance under the provisions of Chapter 44, Reissue Revised Statutes of Nebraska, 1943, and amendments thereto; or

(d) Any policy or contract issued by any person, corporation, or organization which is not licensed by the Department of Insurance under the provisions of Chapter 44, Reissue Revised Statutes of Nebraska, 1943, and amendments thereto.

Sec. 4. This act shall be liberally construed to effect the purposes enumerated in section 1 of this act which shall constitute an aid and guide to interpretation.

Sec. 5. (1) There is hereby created a nonprofit unincorporated legal entity to be known as the Nebraska Life and Health Insurance Guaranty Association. All member insurers shall be members of the association as a condition of their authority to transact the business of insurance in this state. The association shall perform its functions under the plan of operation established and approved according to section 8 of this act and shall exercise its powers through a board of directors established pursuant to the provisions of section 6 of this act. For purposes of administration and assessment, the association shall maintain three accounts: (a) A health insurance account; (b) a life insurance account; and (c) an annuity account.

(2) The association shall be under the direct supervision of the director and shall be subject to the applicable provisions of the insurance laws of this state.

Sec. 6. (1) The board of directors of the association shall consist of not less than five nor more than nine members serving terms as established in the plan of operation. The members of the board shall be selected by member insurers subject to the approval of the director. Vacancies on the board shall be filled for the remaining period of the term in the manner described in the plan of operation. To select the initial board of directors and initially organize the association, the director shall give notice to all member insurers of the time and place of the organizational meeting. In determining voting rights at the organizational meeting each member insurer shall be entitled to one vote in person or by proxy. If the board of directors is not selected within sixty days after notice of the organizational meeting, the director may appoint the initial members.

(2) In approving selections or in appointing members to the board, the director shall consider whether all member insurers are fairly represented.

(3) Members of the board may be reimbursed from the assets of the association for expenses incurred by them as members of the board but shall not otherwise be compensated by the association for their services.

Sec. 7. In addition to the powers and duties enumerated in other sections of this act:

(1) If a domestic insurer is an impaired insurer, the association may, prior to an order of liquidation or rehabilitation and subject to any conditions imposed by the association other than those which impair the contractual obligations of the impaired insurer, and approved by the impaired insurer and the director:

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

(b) Provide such money, pledges, notes, guarantees, or other means as are proper to effectuate the provisions of subdivision (1) (a) of this section, and assure payment of the contractual obligations of the impaired insurer pending action under the provisions of subdivision (1) (a) of this section; and

(c) Loan money to the impaired insurer;

(2) If a foreign or alien insurer is an impaired insurer, the association may, prior to an order of liquidation, rehabilitation, or conservation, with respect to the covered policies of residents and subject to any conditions imposed by the association other than those which impair the contractual obligations of the impaired insurer, and approved by the impaired insurer and the director:

(a) Guarantee or reinsure, or cause to be guaranteed, assumed, or reinsured, the impaired insurer's covered policies of residents;

(b) Provide such money, pledges, notes, guarantees, or other means as are proper to effectuate the provisions of subdivision (2) (a) of this section, and assure payment of the impaired insurer's contractual obligations to residents pending action under the provisions of subdivision (2) (a) of this section; and

(c) Loan money to the impaired insurer;

(3) If a domestic insurer is an impaired insurer under an order of liquidation or rehabilitation, 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 impaired insurer;

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

(c) Provide such money, pledges, notes, guarantees, or other means as are reasonably necessary to discharge such duties, but if the association fails to act within a reasonable period of time under this subdivision, the director shall have the powers and duties of the association under the provisions of this act with respect to such domestic impaired insurer;

(4) If a foreign or alien insurer is an impaired insurer under an order of liquidation, rehabilitation, or conservation, 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 residents;

(b) Assure payment of the contractual obligations of the impaired insurer to residents; and

(c) Provide such money, pledges, notes, guarantees, or other means as are reasonably necessary to discharge such duties, but if the association fails to act within a reasonable period of time under this subdivision, the director shall have the powers and duties of the association under the provisions of this act with respect to such foreign or alien impaired insurer;

(5) (a) In carrying out its duties under subdivisions (3) and (4) of this section, the association may request that there be imposed policy liens, contract liens, moratoriums on payments, or other similar means and such liens, moratoriums, or similar means may be imposed if the director:

(i) Finds that the amounts which can be assessed under this act are less than the amounts needed to assure full and prompt performance of the impaired insurer's contractual obligations, or that the economic or financial conditions as they affect member insurers are sufficiently adverse to render the imposition of policy or contract liens, moratoriums, or similar means to be in the public interest; and

(ii) Approves the specific policy liens, contract liens, moratoriums, or similar means to be used; and

(b) Before being obligated under subdivisions (3) and (4) of this section, the association may request that there be imposed temporary moratoriums or liens on payments of cash values and policy loans and such temporary moratoriums and liens may be imposed if they are approved by the director;

(6) The association shall have no liability under the provisions of this section for any covered policy of a foreign or alien insurer whose domiciliary jurisdiction or state of entry provides by statute or regulation, for residents of this state, protection substantially similar to that provided by this act for residents of other states;

(7) The association may render assistance and advice to the director, upon his request, concerning rehabilitation, payment of claims, continuations of coverage, or the performance of other contractual obligations of any impaired insurer;

(8) The association shall have standing to appear before any court in this state with jurisdiction over an impaired insurer concerning which the association is or may become obligated under this act. 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 insurer and the determination of the covered policies and contractual obligations;

(9) (a) Any person receiving benefits under this act shall be deemed to have assigned his rights under the covered policy to the association to the extent of the benefits received because of this act whether the benefits are payments 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 this act upon such person. The association shall be subrogated to these rights against the assets of any impaired insurer; and

(b) The subrogation rights of the association under the provisions of this subdivision shall have the same priority against the assets of the impaired insurer as that possessed by the person entitled to receive benefits under this act;

(10) The contractual obligations of the impaired insurer for which the association becomes or may become liable shall be as great as but no greater than the contractual obligations of the impaired insurer would have been in the absence of an impairment unless such obligations are reduced as permitted by subdivision (5) of this section, but the association shall have no liability with respect to any portion of a covered policy to the extent that the death benefit coverage on any one life exceeds an aggregate of three hundred thousand dollars; and

(11) The association may:

(a) Enter into such contracts as are necessary or proper to carry out the provisions and purposes of this act;

(b) Sue or be sued, including taking any legal actions necessary or proper for recovery of any unpaid assessments under the provisions of section 8 of this act;

(c) Borrow money to effect the purposes of this act. 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 this act;

(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; and

(j) Exercise, for the purposes of this act 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 insurance policies or annuity contracts other than those issued to perform the contractual obligations of the impaired insurer.

Sec. 8. (1) For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers, separately for each account, at such times and for such amounts as the board finds necessary. The board shall collect the assessments after thirty

days' written notice to the member insurers before payment is due.

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

(a) Class A assessments shall be made for the purpose of meeting administrative costs and other general expenses not related to a particular impaired insurer;

(b) Class B assessments shall be made to the extent necessary to carry out the powers and duties of the association under the provisions of section 7 of this act with regard to an impaired domestic insurer; and

(c) Class C assessments shall be made to the extent necessary to carry out the powers and duties of the association under the provisions of section 7 of this act with regard to an impaired foreign or alien insurer.

(3) (a) The amount of any Class A assessment for each account shall be determined by the board. The amount of any Class B or C assessment shall be divided among the accounts in the proportion that the premiums received by the impaired insurer on the policies covered by each account bears to the premiums received by such insurer on all covered policies.

(b) Class A and Class C assessments against member insurers for each account shall be in the proportion that the premiums received on business in this state by each assessed member insurer on policies covered by each account bears to such premiums received on business in this state by all assessed member insurers.

(c) Class B assessments for each account shall be made separately for each state in which the impaired domestic insurer was authorized to transact the business of insurance at any time, in the proportion that the premiums received on business in such state by the impaired insurer on policies covered by such account bears to such premiums received in all such states by the impaired insurer. The assessments against member insurers shall be in the proportion that the premiums received on business in each such state by each assessed member insurer on policies covered by each account bears to such premiums received on business in each state by all assessed member insurers.

(d) Assessments for funds to meet the requirements of the association with respect to an impaired insurer shall not be made until necessary to implement the purposes of this act. Classification of

assessments under the provisions of subsection (2) of this section and computation of assessments under this subsection shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible.

(4) The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. The total of all assessments upon a member insurer for each account shall not in any one calendar year exceed two per cent of such insurer's premiums in this state on the policies covered by the account.

(5) In the event an assessment against a member insurer is abated or deferred, in whole or in part, because of the limitations set forth pursuant to the provisions of subsection (4) of this section, the amount by which such assessment is abated or deferred shall be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section. If the maximum assessment, together with the other assets of the association in either account, does not provide in any one year in either account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as permitted by this act.

(6) The board may, by an equitable method as established in the plan of operation, refund to member insurers in proportion to the contribution of each insurer to that account the amount by which the assets of the account exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to that amount, including assets accruing from net realized gains and income from investments. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the association and for future losses if refunds are impractical.

(7) It shall be proper for any member insurer, in determining its premium rates and policyowner dividends as to any kind of insurance specified under the provisions of this act, to consider the amount reasonably necessary to meet its assessment obligations under this act.

(8) The association shall issue to each insurer paying an assessment under this act a certificate of contribution in a form prescribed by the director for the

amount so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statement as a nonadmitted asset in such form and for such amount, if any, and period of time as the director may approve.

Sec. 9. (1) (a) The association shall submit to the director a plan of operation and any amendments thereto necessary or suitable to assure the fair, reasonable, and equitable administration of the association. The plan of operation and any amendments thereto shall become effective upon approval in writing by the director.

(b) If the association fails to submit a suitable plan of operation within one hundred eighty days following the effective date of this act or if at any time thereafter the association fails to submit suitable amendments to the plan, the director shall, after notice and hearing, adopt and promulgate such reasonable rules as are necessary or advisable to effectuate the provisions of this act. Such rules shall continue in force until modified by the director or superseded by a plan submitted by the association and approved by the director.

(2) All member insurers shall comply with the plan of operation.

(3) The plan of operation shall, in addition to requirements enumerated in other sections of this act:

(a) Establish procedures for handling the assets of the association;

(b) Establish the amount and method of reimbursing members of the board of directors under the provisions of section 6 of this act;

(c) Establish regular places and times for meetings of the board of directors;

(d) Establish procedures for records to be kept of all financial transactions of the association, its agents, and the board of directors;

(e) Establish the procedures whereby selections for the board of directors shall be made and submitted to the director;

(f) Establish any additional procedures for assessments pursuant to the provisions of section 8 of

this act; and

(j) Contain additional provisions necessary or proper for the execution of the powers and duties of the association.

(4) The plan of operation may provide that any or all powers and duties of the association, except those under the provisions of subdivision (11) (c) of section 7 of this act and the provisions of section 8 of this act, are delegated to a corporation, association, or other organization which performs or will perform functions similar to those of the association, or its equivalent, in two or more states. Such a corporation, association, or organization shall be reimbursed for any payments made on behalf of the association and shall be paid for its performance of any function of the association. A delegation made under this subsection shall take effect only with the approval of both the board of directors and the director and may be made only to a corporation, association, or organization which extends protection not substantially less favorable and effective than that provided by this act.

Sec. 10. In addition to the powers and duties enumerated in other sections of this act:

(1) The director shall:

(a) Notify the board of directors of the existence of an impaired insurer not later than three days after a determination of impairment is made or he receives notice of impairment;

(b) Upon request of the board of directors, provide the association with a statement of the premiums in the appropriate states for each member insurer;

(c) When an impairment is declared and the amount of the impairment is determined, serve a demand upon the impaired insurer to make good the impairment within a reasonable time. Notice to the impaired insurer shall constitute notice to its shareholders, if any. The failure of the insurer to promptly comply with such demand shall not excuse the association from the performance of its powers and duties under this act;

(d) In any liquidation or rehabilitation proceeding under Nebraska law involving a domestic insurer, be appointed as the liquidator or rehabilitator. If a foreign or alien member insurer is subject to a liquidation proceeding in its domiciliary jurisdiction or state of entry, the director shall be appointed

conservator; and

(e) Transmit to the association all claims on covered policies timely filed with him pursuant to the provisions of sections 44-127.01 to 44-127.05, Reissue Revised Statutes of Nebraska, 1943. The association shall thereupon be considered to have been designated as the director's representative pursuant to the provisions of section 44-127.07, Reissue Revised Statutes of Nebraska, 1943, and it shall proceed to investigate, hear, settle, and determine such claims unless the claimant shall, within thirty days from the date the claim is filed with the director, file with the director a written demand that the claim be processed in the liquidation proceedings as a claim not covered by this act. In regard to those claims transmitted to the association by the director, the association and claimants shall have all of the rights and obligations and be subject to the same limitations and procedures as are specified in sections 44-127.05 to 44-127.11, Reissue Revised Statutes of Nebraska, 1943, for the determination of claims;

(2) The director may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the director may levy a forfeiture on any member insurer which fails to pay an assessment when due. Such forfeiture shall not exceed five per cent of the unpaid assessment per month, but no forfeiture shall be less than one hundred dollars per month;

(3) Any action of the board of directors or the association may be appealed to the director by any member insurer if such appeal is taken within thirty days of the action being appealed. Any final action or order of the director shall be subject to judicial review in a court of competent jurisdiction; and

(4) The liquidator, rehabilitator, or conservator of any impaired insurer may notify all interested persons of the effect of this act.

Sec. 11. To aid in the detection and prevention of insurer impairments:

(1) The board of directors shall, upon majority vote, notify the director of any information indicating any member insurer may be unable or potentially unable to fulfill its contractual obligations;

(2) The board of directors may, upon majority vote, request that the director order an examination of any member insurer which the board in good faith believes may be unable or potentially unable to fulfill its contractual obligations. The director may conduct such examination. The examination may be conducted as a National Association of Insurance Commissioners examination or may be conducted by such persons as the director may designate. The cost of such examination shall be paid by the association and the examination report shall be treated as are other examination reports. In no event shall such examination report be released to the board of directors of the association prior to its release to the public, but this shall not excuse the director from his obligation to comply with the provisions of subdivision (3) of this section. The director shall notify the board of directors when the examination is completed. The request for an examination shall be kept on file by the director but it shall not be open to public inspection prior to the release of the examination report to the public and shall be released at that time only if the examination discloses that the examined insurer is unable or potentially unable to meet its contractual obligations;

(3) The director shall report to the board of directors when he has reasonable cause to believe that any member insurer examined at the request of the board of directors may be unable or potentially unable to fulfill its contractual obligations;

(4) The board of directors may, upon majority vote, make reports and recommendations to the director upon any matter germane to the solvency, liquidation, rehabilitation, or conservation of any member insurer. Such reports and recommendations shall not be considered public documents;

(5) The board of directors may, upon majority vote, make recommendations to the director for the detection and prevention of insurer impairments; and

(6) The board of directors shall, at the conclusion of any insurer impairment in which the association carried out its duties under this act or exercised any of its powers under this act, prepare a report on the history and causes of such impairment, based on the information available to the association, and submit such report to the director.

Sec. 12. The association may recommend a natural person to serve as a special deputy to act for the director and under his supervision in the

liquidation, rehabilitation, or conservation of any member insurer.

Sec. 13. (1) Nothing in this act shall be construed to reduce the liability for unpaid assessments of the insureds of an impaired insurer operating under a plan with assessment liability.

(2) Records shall be kept of all negotiations and meetings in which the association or its representatives are involved to discuss the activities of the association in carrying out its powers and duties pursuant to the provisions of section 7 of this act. Records of such negotiations or meetings shall be made public only upon the termination of a liquidation, rehabilitation, or conservation proceeding involving the impaired insurer, upon the termination of the impairment of the insurer, or upon the order of a court of competent jurisdiction. Nothing in this subsection shall limit the duty of the association to render a report of its activities as provided in section 14 of this act.

(3) For the purpose of carrying out its obligations under this act, the association shall be deemed to be a creditor of the impaired insurer to the extent of assets attributable to covered policies reduced by any amounts to which the association is entitled as subrogee pursuant to subdivision (9) of section 7 of this act. All assets of the impaired insurer attributable to covered policies shall be used to continue all covered policies and pay all contractual obligations of the impaired insurer as required by this act. Assets attributable to covered policies, as used in this subsection, are that proportion of the assets which the reserves that should have been established for such policies bear to the reserve that should have been established for all policies of insurance written by the impaired insurer.

(4) (a) Prior to the termination of any liquidation, rehabilitation, or conservation proceeding, the court may take into consideration the contributions of the respective parties, including the association, the shareholders and policyowners of the impaired insurer, and any other party with a bona fide interest in making an equitable distribution of the ownership rights of such impaired insurer. In such a determination, consideration shall be given to the welfare of the policyholders of the continuing or successor insurer.

(b) No distribution to stockholders, if any, of an impaired insurer shall be made until and unless the total amount of assessments levied by the association

with respect to such insurer have been fully recovered by the association.

(5) It shall be a prohibited unfair trade practice for any person to make use in any manner of the protection afforded by this act in the sale of insurance.

(6) (a) If an order for liquidation or rehabilitation of an insurer domiciled in this state has been entered, the receiver appointed under such order shall have a right to recover on behalf of the insurer, from any affiliate, the amount of distributions, other than stock dividends paid by the insurer on its capital stock, made at any time during the five years preceding the petition for liquidation or rehabilitation subject to the limitations of subdivisions (b), (c), and (d) of this subsection.

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

(c) Any person who was an affiliate of the insurer at the time the distributions were paid shall be liable up to the amount of distributions he received. Any person who was an affiliate of the insurer at the time the distributions were declared shall be liable up to the amount of distributions he would have received if they had been paid immediately. If two persons are liable with respect to the same distributions, they shall be jointly and severally liable.

(d) The maximum amount recoverable under this subsection shall be the amount needed in excess of all other available assets of the impaired insurer to pay the contractual obligations of the impaired insurer.

(e) If any person liable under subdivision (c) of this subsection is insolvent, all its affiliates at the time the dividend was paid shall be jointly and severally liable for any resulting deficiency in the amount recovered from the insolvent affiliate.

Sec. 14. The association shall be subject to examination and regulation by the director. The board of directors shall submit to the director, not later than May 1 of each year, a financial report for the preceding calendar year in a form approved by the director and a report of its activities during the preceding calendar year.

Sec. 15. The association shall be exempt from payment of all fees and all taxes levied by this state or any of its subdivisions, except taxes levied on real property.

Sec. 16. (1) Unless a longer period has been allowed by the director, a member insurer shall, at its option, have the right to show a certificate of contribution as a nonadmitted asset in the form approved by the director pursuant to subsection (7) of section 8 of this act, at percentages of the original face amount approved by the director, for calendar years not to exceed the following:

(a) One hundred per cent for the calendar year of issuance;

(b) Eighty per cent for the first calendar year after the year of issuance;

(c) Sixty per cent for the second calendar year after the year of issuance;

(d) Forty per cent for the third calendar year after the year of issuance;

(e) Twenty per cent for the fourth calendar year after the year of issuance; and

(f) Zero per cent for the fifth calendar year after the year of issuance, and thereafter.

(2) The insurer may offset the amount written off by it in a calendar year under the provisions of subsection (1) of this section against its premium tax liability to this state pursuant to the provisions of sections 44-1213, 77-908, and 77-909, Reissue Revised Statutes of Nebraska, 1943, accrued with respect to business transacted in such year.

(3) Any sums acquired by refund pursuant to subsection (6) of section 8 of this act from the association which have previously been written off by contributing insurers and offset against premium taxes as provided in subsection (2) of this section, and are not then needed for purposes of Chapter 44, Reissue Revised Statutes of Nebraska, 1943, and amendments thereto, shall be paid by the association to the director who shall handle such funds in the same manner as provided for in section 77-912, Reissue Revised Statutes of Nebraska, 1943.

Sec. 17. There shall be no liability on the part of and no cause of action of any nature shall arise against any member insurer or its agents or employees, the association or its agents or employees, members of the board of directors, or the director or his representatives for any action taken by them in the performance of their powers and duties under the provisions of this act.

Sec. 18. All proceedings in which the impaired insurer is a party in any court in this state shall be stayed sixty days from the date an order of liquidation, rehabilitation, or conservation is final to permit proper legal action by the association on any matters germane to its powers or duties. As to a judgment under any decision, order, verdict, or finding based on default, the association may apply to have such judgment set aside by the same court that made such judgment and shall be permitted to defend against such suit on the merits.

Sec. 19. Assessments made by the insurance guaranty associations, or similar entities, pursuant to the laws of any other state shall not be considered taxes, licenses, other fees, other material obligations, prohibitions, or restrictions as defined in section 44-150, Reissue Revised Statutes of Nebraska, 1943.

Sec. 20. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 21. This act shall be cited as the Nebraska Life and Health Insurance Guaranty Association Act.