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Robert R. Corbin

October 16, 1987

The Honorable James B. Ratliff
Arizona State Representative
State Capitol - House Wing
Phoenix, Arizona 85007

Re: I87-135 (R87-162)

Dear Representative Ratliff:

We are writing in response to your request for an opinion whether the Insurance Guarantee Fund ("Fund") should fully reimburse annuity holders for the full value of the annuities in excess of one hundred thousand dollars if the insurance company which issued the annuity is no longer solvent. We conclude that the Fund must reimburse annuity holders up to but not exceeding one hundred thousand dollars.

If an insurer is determined to be an impaired insurer, the Fund's Board is authorized to guarantee, assume or reinsure all of the policies of the impaired insurer. The applicable statute is A.R.S. § 20-685(J), which provides in pertinent part:

The contractual obligations of the impaired insurer for which the board becomes or may become liable shall be as great as, but no greater than, what the contractual obligations of the impaired insurer would have been in the absence of an impairment, However, the aggregate liability of the board shall not exceed one hundred thousand dollars with respect to cash value or annuity claims

(Emphasis added.)

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Annuity contracts are expressly included within the scope of A.R.S. § 20-685. A.R.S. § 20-682(A) provides:

This article applies to direct life insurance policies, disability insurance policies, annuity contracts and contracts supplemental to life and disability insurance policies and annuity contracts issued by persons authorized to transact insurance in this state.

We conclude that the express terms of A.R.S. § 20-685 statutorily limits the Board's liability to one hundred thousand dollars for an impaired insurer. Thus, the Insurance Guarantee Fund may be liable for reimbursement of annuity holders of an impaired insurer for no more than one hundred thousand dollars.

Sincerely,



BOB CORBIN
Attorney General

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