**§ 3222. Funding agreements.** (a) Any insurer authorized to deliver or issue for delivery annuity contracts in the state may deliver or issue for delivery one or more funding agreements. The issuance or delivery of such funding agreements shall not be deemed to be doing a kind of business specifically authorized by section one thousand one hundred thirteen of this chapter or engaging in any business authorized by section one thousand seven hundred fourteen of this chapter. Notwithstanding the definition of "insurance contract" in paragraph one of subsection (a) of section one thousand one hundred one of this chapter, the issuance or delivery of a funding agreement by an insurer in this state shall constitute doing an insurance business herein.

(b) Such funding agreements may be issued to persons authorized by a state or foreign country to engage in an insurance business or subsidiaries of such persons. Such funding agreements may also be issued to entities other than persons authorized to engage in an insurance business (and subsidiaries of such persons) and to individuals for the following purposes: (i) to fund benefits under any employee benefit plan as defined in the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq, maintained in the United States or in a foreign country, (ii) to fund the activities of any organization exempt from taxation under section five hundred one (c) of the Internal Revenue Code or of any similar organization in any foreign country, (iii) to fund any program of the government of the United States, the government of any state, foreign country or political subdivision thereof, or any agency or instrumentality thereof, (iv) to fund any agreement providing for periodic payments in satisfaction of a claim or (v) to fund any program of an institution which has assets in excess of twenty-five million dollars.

(c) No amounts shall be guaranteed or credited under any such funding agreement except upon reasonable assumptions as to investment income and expenses and on a basis equitable to all holders of funding agreements of a given class. Such funding agreements shall not provide for payments to or by the insurer based on mortality or morbidity contingencies.

(d) Amounts paid to the insurer, and proceeds applied under optional modes of settlement, under such funding agreements may be allocated by the insurer to one or more separate accounts pursuant to section four thousand two hundred forty of this chapter.

(e) (1) The superintendent may promulgate reasonable regulations relating to (i) the standards to be followed in the approval of forms of such funding agreements, (ii) the reserves to be maintained by insurers issuing such funding agreements, (iii) the accounting and reporting of funds credited under such funding agreements, (iv) the disclosure of information to be given to holders and prospective holders of such funding agreements, and (v) the qualification and compensation of persons selling such funding agreements on behalf of insurers.

(2) Notwithstanding any other provision of law, the superintendent shall have sole authority to regulate the issuance and sale of such funding agreements, including the persons selling such funding agreements on behalf of insurers.