

## REQUEST FOR NAIC MODEL LAW DEVELOPMENT

This form is intended to gather information to support the development of a new model law or amendment to an existing model law. Prior to development of a new or amended model law, approval of the respective Parent Committee and the NAIC's Executive Committee is required. The NAIC's Executive Committee will consider whether the request fits the criteria for model law development. Please complete all questions and provide as much detail as necessary to help in this determination.

Please check whether this is:       New Model Law      or       Amendment to Existing Model

**1. Name of group to be responsible for drafting the model:**

Receivership Law (E) Working Group of the Receivership and Insolvency (E) Task Force to complete the drafting.

Note that Model #540 is currently being amended to address restructuring mechanisms, per the request for model law development adopted by NAIC Executive (EX) Committee on August 11, 2022. The Task Force hopes to consider the adoption of further amendments for this request within a similar timeframe.

**2. NAIC staff support contact information:**

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816-783-8145

**3. Please provide a brief description of the proposed new model or the amendment(s) to the existing model. If you are proposing a new model, please also provide a proposed title. If an existing model law, please provide the title, attach a current version to this form and reference the section(s) proposed to be amended.**

- ***Property and Casualty Insurance Guaranty Association Model Act (#540)***

As presented by the National Conference of Insurance Guaranty Funds (NCIGF), cyber security insurance coverage is trending into the admitted market. Consequently, NCIGF anticipates the insurance insolvency resolution system will be presented with claims and other issues related to this coverage. These policy obligations may flow both from standalone cyber policies, endorsements, or from coverages that may be found to exist in commercial general liability and other lines of business typically written for business entities. For this reason, policymakers need to determine how such coverages will be handled should an insurer writing this business become insolvent. While each jurisdiction will need to decide whether, and within what parameters, cyber claims will be covered, we offer for consideration and guidance recommended amendments to the NAIC Property and Casualty Insurance Guaranty Association Act (NAIC Model 540). Policy makers should also consider how such claims will be handled before guaranty funds and associations (hereinafter "guaranty funds") are triggered – for example in a rehabilitation proceeding. Likewise, current insolvency processes and transition to the guaranty funds will need to be changed and enhanced to deal with this unique line of business and especially its demanding claims administration standards.

**4. Does the model law meet the Model Law Criteria?**       Yes      or       No      (Check one)

(If answering no to any of these questions, please reevaluate charge and proceed accordingly to address issues).

- a. Does the subject of the model law necessitate a national standard and require uniformity amongst all states?**       Yes      or       No      (Check one)

**If yes, please explain why:**

This proposed change is needed to ensure cyber insurance policyholders in all states are provided with guaranty fund coverage for this trending line of business.

b. Does Committee believe NAIC members should devote significant regulator and Association resources to educate, communicate and support this model law?

Yes or  No (Check one)

5. What is the likelihood that your Committee will be able to draft and adopt the model law within one year from the date of Executive Committee approval?

1  2  3  4  5 (Check one)

High Likelihood

Low Likelihood

**Explanation, if necessary:**

NCIGF has provided a proposal of suggested amendments for consideration. Proposed amendments include a definition of cyber insurance, coverage limitations and updates to other references.

6. What is the likelihood that a minimum two-thirds majority of NAIC members would ultimately vote to adopt the proposed model law?

1  2  3  4  5 (Check one)

High Likelihood

Low Likelihood

**Explanation, if necessary:** See previous discussion.

7. What is the likelihood that state legislatures will adopt the model law in a uniform manner within three years of adoption by the NAIC?

1  2  3  4  5 (Check one)

High Likelihood

Low Likelihood

**Explanation, if necessary:**

At this juncture, the amendments being considered are simple and because they have the potential to address future policyholder protection for this line of business, we believe such changes will be widely supported by all parties.

8. Is this model law referenced in the NAIC Accreditation Standards? If so, does the standard require the model law to be adopted in a substantially similar manner?

No reference in Accreditation Standards.

9. Is this model law in response to or impacted by federal laws or regulations? If yes, please explain.

No.