



November 11, 2021

Commissioner Damion Hughes, Chair  
Market Conduct Examination Guidelines (D) Working Group  
National Association of Insurance Commissioners  
1100 Walnut Street, Suite 1500  
Kansas City, MO 64106-2197

**Re: New Exposure Draft Revisions to Chapter 21-Conducting the Property and Casualty Examination incorporating the NAIC Real Property Lender-Placed Insurance Model Act (Model #631)-Comments of the Industry Trade Associations**

Dear Commissioner Hughes:

On behalf of the *American Bankers Association*, the *Consumer Credit Industry Association*, the *Council of Insurance Agents & Brokers*, the *National Association of Mutual Insurance Companies*, and the *American Property Casualty Insurance Association* (collectively “Industry”) we write to support the incorporation of certain elements of the NAIC Real Property Lender-Placed Insurance Model Act (“Model Act”) into the Property and Casualty Market Conduct Exam Guidelines (“Guidelines”) and appreciate the diligence and effort that went into the new exposure drafts released by the Market Conduct Examination Guidelines Working Group (the “Working Group”).

During the most recent conference call held by the Working Group on November 4, 2021, the Industry voiced a recommendation that some limited edits to the currently exposed draft would further align the Guidelines with the Model Act. The Industry greatly appreciates the support shown by the Working Group with this recommendation. Accordingly, in the spirit of this discussion, the Industry recommends the following suggested edits to the Guidelines for the Working Group’s consideration:

- **Standard 1** on page 2 is a revision to include certificates of insurance within recommended documents to be reviewed by examiners.
  - This revision is a natural extension of the requirements reflected in the Model Act and we recognize the need for the review of the lender placed insurance certificates. The Industry suggests the following change clarifying the examination of certificates of insurance is in reference to lender placed insurance only.
  - Suggested revision:
    - New business policy forms and certificates of insurance (such certificates will only be requested for lender-placed insurance policies)
- **Standard 4** on Page 9 is a revision to include evidence of separate rates for mortgage servicer obtained lender-placed insurance versus voluntary insurance on real estate owned property.

- This revision aligns with the requirements in Section 9(D) of the Model Act; however, the Industry suggests an edit to the language clarifying that this document request is only in reference to lender-placed insurance.
- Suggested revision:
  - **For lender-placed insurance**, documentation showing regulated entity's separate rates for mortgage servicer obtained lender-placed insurance versus voluntary insurance on real estate owned property
- **Standard 6** on Page 12 is a revision to ensure the applicable reports under Section 9 of the Model Act have been filed. Revisions to the Review Procedures and Criteria include a provision to ensure that excess amounts paid to mortgagors can be easily reviewed.
  - The "*Apply to*" section of the Standard indicates that Standard 6-Verification of Loss Reporting only applies to worker's compensation examinations. This application should be updated so it also applies to lender-placed insurance.
  - Suggested revision:
    - **Apply to: All workers' compensation examinations and lender-placed insurance examinations, as applicable.**
      - We are including 'as applicable' because NCCI standards do not apply to lender-placed insurance which are referenced in the Documents to be Reviewed section.
  - The Working Group revision on Documents to be Reviewed aligns with the Model Act Section 9(F) and mostly aligns with Section 9(G) *but* fails to note the exclusion of lender-placed flood insurance under the Model Act from the reporting requirements for when a program experiences annual loss ratios of less than 35% for two consecutive years. This recommendation was identified by Industry on the last Working Group conference call and the Working Group agreed on an update to the revision.
  - Suggested revision:
    - Applicable reports filed with the commissioner (e.g., required reporting for insurers with at least \$100,000 in direct written premium for lender-placed insurance, **and** required rate filing for insurers with an annual loss ratio of less than 35% in any lender-placed program, **except with respect to lender-placed flood insurance**, for two consecutive years).
  - The Working Group revision in the Review Procedures and Criteria addressing excess amounts paid to a mortgagor aligns with the Model Act; however, the Industry recommends an edit to clarify that this just applies to lender-placed insurance.
  - Suggested revision:
    - Losses under each policy should be clearly and accurately maintained at the regulated entity, so that paid amounts, reserves, deductibles, and, **with respect to losses under lender-placed insurance policies**, any excess amounts paid to the mortgagor, can be easily reviewed. The sample data should be compared to the unit statistical reports to verify accuracy of reporting of the following items:
- **Standard 13** on Page 21 is a revision to ensure examiners review records related to certain compensation and third-party outsourcing agreements.
  - This revision addresses important requirements included in the Model Act and the Industry recognizes the necessity for examiner review of these documents to ensure compliance. As the Industry has recommended for several of the other changes above, the Industry suggests the following change clarifying that these documents for review apply to lender-placed insurance only.
  - Suggested revision:
    - **For lender-placed insurers**, books and records containing compensation, contingent commissions, profit sharing and other payments dependent on profitability or loss ratios
    - **For lender-placed insurers**, third party agreements for outsourced services

Again, Industry fully supports the addition of the Model Act into the Guidelines and appreciates the Working Group's work and subsequent consideration of the Industry's recommendations. This exercise further solidifies the continued collaboration between the NAIC and Industry.

Thank you for consideration of these comments.

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Cc: Deputy Commissioner Sharon Shipp, District of Columbia