

## HOME SERVICE DISCLOSURE MODEL ACT

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### Section 1. Purpose

The purpose of this model Act is to establish rules that ensure meaningful information is provided to the purchasers of insurance policies distributed through the home service distribution system.

### Section 2. Definitions

As used in this Act:

- A. “Home service distribution system” means a system in which insurance products are marketed, sold or serviced by agents in person in the home or business of the insured, owner or premium payor in assigned territories and that may be identified as “debits,” and
  - (1) The policies are issued on a monthly or more frequent premium payment basis; and
  - (2) Agents are charged with the responsibilities of servicing the debit, which may include the collection of premium payments in the home or designated location on a monthly or more frequent basis, along with other services normally rendered.
- B. “Small face amount life insurance policy” means an insurance policy with a face amount of \$15,000 or less.

**Drafting Note:** The face amount specified in Subsection B should not prohibit states from using a different monetary face amount. Each state should review and consider using a face amount that is consistent with the average face amount for policies distributed through the home service distribution system in the state.

### Section 3. General Disclosure Requirements

- A. In accordance with the disclosure simplification standards set forth in Section 8, at the time an insurance policy is issued through the home service distribution system, the insurer shall disclose at the time the policy is issued:
  - (1) Whether the policyholder is allowed to change the method of premium payment and any conditions for that change;
  - (2) Whether or not at a subsequent date a policyholder may combine multiple policies from the same insurance company, its affiliates and subsidiaries into one policy in order to provide like or enhanced coverage at a comparable or reduced premium to eliminate duplicate administrative costs associated with each policy;
    - (a) If the option is available, whether a policyholder will be subject to underwriting when combining multiple policies into one policy; and

- (b) If the option is available, whether a policyholder will be subject to a new contestable period, waiting periods, etc., when combining multiple policies into one policy.
- B. In accordance with the disclosure simplification standards set forth in Section 8, an insurer issuing a small face amount life policy through the home service distribution system shall provide the disclosure included in Appendix A if at any point in time over the term of the policy the cumulative premiums paid may exceed the face amount of the policy at that point in time. The required disclosure shall be provided to the policy owner or certificate holder no later than at the time the policy or certificate is delivered. The disclosure shall not be attached to the policy, but may be delivered with the policy.
  - (1) If, for a particular policy form, the cumulative premiums may exceed the face for some demographic or benefit combination but not for all combinations, the insurer may choose to either:
    - (a) Provide the disclosure only in those circumstances where the premiums may exceed the face amount; or
    - (b) Provide the disclosure for all demographic and benefit combinations.
  - (2) Cumulative premiums shall include premiums paid for riders. However, the face amount shall not include the benefit attributable to the riders.
  - (3) If an illustration has been provided that meets the requirements of [insert reference to state equivalent to the Life Insurance Illustrations Model Regulation], the disclosure requirements of Subsection B are deemed to have been met.
- C. In accordance with the policy simplification standards set forth in Section 8, at the time a fire insurance policy is issued through the home service distribution system, the insurer shall disclose:
  - (1) Whether the amount of insurance coverage is based on the market value of the property insured. If not, the fire insurance policy shall disclose that it may not cover the full amount of the loss;
  - (2) Whether the policy will pay for a loss that is not caused by fire; and
  - (3) Whether the policy provides any liability coverage.

#### **Section 4. Disclosure of Payment Methods**

In accordance with the disclosure simplification standards set forth in Section 8, at the time an insurance policy is issued through the home service distribution system, the insurer shall disclose:

- A. What premium savings may be realized by a different method or less frequent mode of premium payment;
- B. That premiums are still due and payable by the person responsible for premium payments even when an agent does not collect the premiums;
- C. The mailing address for payment of premiums to the company; and
- D. When premium payments are made in cash or in person, that the consumer is entitled to receive a receipt for premium payments.

#### **Section 5. Evidence of Payment**

For every premium collected on a policy of property, casualty, life or disability insurance marketed, sold or serviced through the home service distribution system in this state, the agent, solicitor or broker, or any employee acting on the agent, solicitor or broker's behalf, collecting or receiving the premium in person shall:

- A. Maintain and furnish to the policyholder a receipt indicating payment of premiums, which shall provide the payer with clearly understandable, written evidence of payment at the time the premium is collected. At a minimum it shall clearly show:

- (1) The name of the payer;
  - (2) The name of insured under each policy covered by the premium;
  - (3) Amount paid;
  - (4) The date paid;
  - (5) The date paid-to-status of the policy;
  - (6) The policy number;
  - (7) The face amount and type of policy for which the payment will be credited;
  - (8) The signature of the agent;
  - (9) The agent's printed name and unique identification number; and
  - (10) The name, complete address and phone number of the insurer; and
- B. Remit to the insurer's home office, applicable district office, or deposit in a fiduciary account the premium collected on behalf of the policyholder within ten (10) days of receipt from the premium payer or policy owner. In the event that the insurer utilizes an accounting system based on a monthly list bill, all premiums collected shall be credited from the date of collection. The premium shall be fully applied to that particular account.

**Section 6. Proof of Policy Delivery**

If an insurance policy marketed, sold or serviced through the home service distribution system is delivered by an agent, solicitor or broker, or an employee acting on the agent, solicitor or broker's behalf, a receipt shall be signed by the purchaser and the agent acknowledging delivery to the purchaser of the policy or contract and the disclosures required by this Act. The receipt shall contain the name of the purchaser, the policy or contract number, the amount of the initial premium payment and the date the delivery was completed. A policy shall be deemed to have been received six (6) months after the date of issuance if the insured has paid premiums pursuant to the contract. All delivery receipts required by this section shall be retained by the company for not less than three (3) years following delivery and shall be available for inspection upon request of the commissioner.

**Section 7. Company Duties**

Each insurer engaged in the home service distribution system in this state shall make available to the insurance commissioner for review:

- A. Established written procedures to audit agencies engaged in the home service system of distribution of policies in this state; and
- B. Proof of audits conducted periodically that reasonably ensure that the premium payer's premium recording item or records accurately reflect the premium due date and premium paid-to-status of the policy or policies purchased.

**Section 8. Minimum Disclosure Language Simplification Standards**

- A. All policy forms shall be approved by the insurance commissioner before they are delivered or issued for delivery in this state.
- B. All disclosure forms shall comply with state readability standards. It is presumed the disclosure form of Appendix A complies with the state readability standards.

**Drafting Note:** If a state does not have readability standards, a state may want to consider using the Flesch “reading ease” test (Rudolph Flesch, the *Art of Readable Writing* 1949, as revised 1974). While the Flesch reading ease test is the basic test set forth in this drafting note, it is recognized that other tests are also in wide use and should be permitted to be used. Two sources in particular can provide guidance in this area. The first is the National Literacy Secretariat of Canada and the second is Plain Language Action Network (PLAN). Both of these sources can be accessed through a U.S. government website: <http://www.plainlanguage.gov>

The National Literacy Secretariat provides direction on modern plain language ideas for the presentation of content that include, for instance, the following:

- Use simple, familiar, everyday words;
- Avoid unnecessary words (e.g., use “about” rather than “with regard to”);
- Avoid using jargon;
- Avoid or explain technical words;
- Don’t change verbs into nouns;
- Avoid chains of nouns;
- Be consistent in your choice of words;
- Use acronyms carefully;
- Write in clear and simple sentences;
- Don’t overload sentences;
- Use active sentences;
- Keep sentences short;
- Keep sentences simple;
- Avoid ambiguity in your sentences;
- Avoid double negatives;
- Divide material into short sections; and
- Limit each paragraph to one topic.

The Plain Language Action Network was formed following the issuance of a June 1, 1998 “Presidential Memorandum on Plain Language.” It is intended to provide assistance to writers in government about communications with the public. In addition to content advice, the PLAN website contains specific guidelines regarding layout and typography that comply with commonly understood plain language principles. For instance, PLAN provides guidelines for the margin, spacing, and heading parameters and for the use of upper and lower case, fonts, shading, and bullets.

C. A document will comply with the Flesch reading ease test if:

- (1) The text achieves a minimum score of 40 on the Flesch reading ease test or an equivalent score on any other comparable test as provided in Subsection D of this section;
- (2) It is printed in not less than ten-point type, one-point leaded; and

**Drafting Note:** This paragraph is not intended to include minor instructions concerning the preparation of a disclosure.

- (3) The style, arrangement and overall appearance of the disclosure form give no undue prominence to any portion of the text of the disclosure form.

D. For the purposes of this Act, a Flesch reading ease test score shall be measured by the following method:

- (1) For disclosure forms containing 10,000 words or less of text, the entire form shall be analyzed. For disclosure forms containing more than 10,000 words, the readability of two 200 word samples per page may be analyzed instead of the entire form. The samples shall be separated by at least 20 printed lines.
- (2) The number of words and sentences in the text shall be counted and the total number of words divided by the total number of sentences. The figure obtained shall be multiplied by a factor of 1.015.
- (3) The total number of syllables shall be counted and divided by the total number of words. The figure obtained shall be multiplied by a factor of 84.6.
- (4) The sum of the figures computed under (2) and (3) subtracted from 206.835 equals the Flesch reading ease score for the policy form.
- (5) For purposes of Paragraph (2), (3), and (4) of this subsection, the following procedures shall be used:
  - (a) A contraction, hyphenated word, or numbers and letters, when separated by spaces, shall be counted as one word;

- (b) A unit of words ending with a period, semicolon or colon, but excluding headings and captions, shall be counted as a sentence; and
  - (c) A syllable means a unit of spoken language consisting of one or more letters of a word as divided by an accepted dictionary. Where the dictionary shows two or more equally acceptable pronunciations of a word, the pronunciation containing fewer syllables may be used.
- E. Filings subject to this Act shall be accompanied by a certificate signed by an officer of the insurer stating that it meets the minimum reading ease score on the test used or stating that the score is lower than the minimum required. To confirm the accuracy of any certification, the commissioner may require the submission of further information to verify the certification in question. The certificate does not need to be signed for the disclosure form of Appendix A or accompany the disclosure form of Appendix A. It is presumed the disclosure form of Appendix A complies with the state readability standards.

**Section 9. Separability**

If any provision of this Act or its application to any person or circumstance is for any reason held to be invalid by any court of law, the remainder of the Act and its application to other persons or circumstances shall not be affected.

**Section 10. Effective Date**

This Act shall become effective [insert appropriate date] and shall apply to insurance policies distributed through the home service distribution system on or after the effective date.

## Appendix A

### Important Information About Your Policy

The premiums you'll pay for your policy may be more than the amount of your coverage (the face amount). You can find both the face amount and the annual premium in your policy. Look for the page labeled [use the label the company uses for that information, such as "Statement of Policy Cost and Benefit Information"].

- Usually, you can figure out how many years it will take until the premiums paid will be greater than the face amount. For an estimate, divide the face amount by the annual premium. Several factors may affect how many years this might take for *your* policy. These include not paying premiums when due, taking out a policy loan, surrendering your policy for cash, policy riders, payment of dividends, if any, and changes in the face amount.
- Many factors will affect how much your life insurance costs. Some are your age and health, the face amount of the policy, and the cost of a policy rider. You may be able to pay less for your insurance if you answer health questions. You may also pay less if you pay your premiums less often.

Ask your insurance agent or your insurance company if you have any questions about your premiums, your coverage, or anything else about your policy.

### If You Change Your Mind ...

- You can get a full refund of premiums you've paid if you return your policy and cancel your coverage. You *must* do this within the number of days stated on your policy's front page. To return the policy for a full refund, send it back to the agent or the company.
- If you stop paying premiums or cancel your policy *after* the time that a full refund is available, you have specific rights. Ask your insurance agent or your insurance company about your rights.

### Contact Information

If you have questions about your insurance policy, ask your agent or your company. If your agent isn't available, contact your insurance company at [provide telephone number (including toll-free number if available), address and website (if available)].

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*Chronological Summary of Actions (all references are to the Proceedings of the NAIC)*

2001 Proc. 4<sup>th</sup> Quarter 162-164, 181-185, 186 (model adopted later printed here).

2002 Proc. 1<sup>st</sup> Quarter 13, 14, 394 (adopted).

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**This chart is intended to provide readers with additional information to more easily access state statutes, regulations, bulletins or administrative rulings related to the NAIC model. Such guidance provides readers with a starting point from which they may review how each state has addressed the model and the topic being covered. The NAIC Legal Division has reviewed each state's activity in this area and has determined whether the citation most appropriately fits in the Model Adoption column or Related State Activity column based on the definitions listed below. The NAIC's interpretation may or may not be shared by the individual states or by interested readers.**

**This chart does not constitute a formal legal opinion by the NAIC staff on the provisions of state law and should not be relied upon as such. Nor does this state page reflect a determination as to whether a state meets any applicable accreditation standards. Every effort has been made to provide correct and accurate summaries to assist readers in locating useful information. Readers should consult state law for further details and for the most current information.**

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**KEY:**

**MODEL ADOPTION:** States that have citations identified in this column adopted the most recent version of the NAIC model in a **substantially similar manner**. This requires states to adopt the model in its entirety but does allow for variations in style and format. States that have adopted portions of the current NAIC model will be included in this column with an explanatory note.

**RELATED STATE ACTIVITY:** Examples of Related State Activity include but are not limited to: older versions of the NAIC model, statutes or regulations addressing the same subject matter, or other administrative guidance such as bulletins and notices. States that have citations identified in this column **only** (and nothing listed in the Model Adoption column) have **not** adopted the most recent version of the NAIC model in a **substantially similar manner**.

**NO CURRENT ACTIVITY:** No state activity on the topic as of the date of the most recent update. This includes states that have repealed legislation as well as states that have never adopted legislation.

NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Alabama		BULLETIN of Feb. 10, 1994 (home service standards).
Alaska	NO CURRENT ACTIVITY	
American Samoa	NO CURRENT ACTIVITY	
Arizona	NO CURRENT ACTIVITY	
Arkansas		ARK. CODE ANN. §§ 23-66-401 to 23-66-408 (1993/1997) (home service standards).
California	NO CURRENT ACTIVITY	
Colorado	NO CURRENT ACTIVITY	
Connecticut	NO CURRENT ACTIVITY	
Delaware	NO CURRENT ACTIVITY	
District of Columbia	NO CURRENT ACTIVITY	
Florida	NO CURRENT ACTIVITY	
Georgia	NO CURRENT ACTIVITY	
Guam	NO CURRENT ACTIVITY	

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<b>NAIC MEMBER</b>	<b>MODEL ADOPTION</b>	<b>RELATED STATE ACTIVITY</b>
Hawaii	NO CURRENT ACTIVITY	
Idaho	NO CURRENT ACTIVITY	
Illinois	NO CURRENT ACTIVITY	
Indiana	NO CURRENT ACTIVITY	
Iowa	NO CURRENT ACTIVITY	
Kansas	NO CURRENT ACTIVITY	
Kentucky	NO CURRENT ACTIVITY	
Louisiana		LA. REV. STAT. ANN. § 22:821 (2009).
Maine	NO CURRENT ACTIVITY	
Maryland	NO CURRENT ACTIVITY	
Massachusetts	NO CURRENT ACTIVITY	
Michigan	NO CURRENT ACTIVITY	
Minnesota	NO CURRENT ACTIVITY	
Mississippi	NO CURRENT ACTIVITY	
Missouri	NO CURRENT ACTIVITY	
Montana	NO CURRENT ACTIVITY	
Nebraska	NO CURRENT ACTIVITY	
Nevada	S.B. 440 (2011).	
New Hampshire	NO CURRENT ACTIVITY	
New Jersey	NO CURRENT ACTIVITY	
New Mexico	NO CURRENT ACTIVITY	
New York	NO CURRENT ACTIVITY	
North Carolina	NO CURRENT ACTIVITY	

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<b>NAIC MEMBER</b>	<b>MODEL ADOPTION</b>	<b>RELATED STATE ACTIVITY</b>
North Dakota	NO CURRENT ACTIVITY	
Northern Marianas	NO CURRENT ACTIVITY	
Ohio	NO CURRENT ACTIVITY	
Oklahoma	NO CURRENT ACTIVITY	
Oregon	NO CURRENT ACTIVITY	
Pennsylvania	NO CURRENT ACTIVITY	
Puerto Rico	NO CURRENT ACTIVITY	
Rhode Island	NO CURRENT ACTIVITY	
South Carolina	NO CURRENT ACTIVITY	
South Dakota	NO CURRENT ACTIVITY	
Tennessee	NO CURRENT ACTIVITY	
Texas	NO CURRENT ACTIVITY	
Utah	NO CURRENT ACTIVITY	
Vermont	NO CURRENT ACTIVITY	
Virgin Islands	NO CURRENT ACTIVITY	
Virginia		VA. CODE ANN. § 38.2-1805 (1986/2001) (home service standards).
Washington	NO CURRENT ACTIVITY	
West Virginia	NO CURRENT ACTIVITY	
Wisconsin	NO CURRENT ACTIVITY	
Wyoming	NO CURRENT ACTIVITY	

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A regulator cautioned that comments attempting to limit the working group's regarding the home service distribution system were not helpful. This regulator stated that if industry argues that this working group is limited to issues identified in the white paper then he would recommend expanding the working group's charge to the Market Conduct and Consumer Affairs (EX3) Subcommittee. **1999 Proc. 3rd Quarter 179.**

An interested party pointed out that policy delivery was not a problem identified in the white paper and yet the model act addresses policy issuance. A regulator stated that the disclosure provisions should be limited to the issues identified in the white paper. This regulator stated that he believed that the development of a disclosure model act is not enough to address the consumer protection issues present in the home service distribution system. **1999 Proc. 3rd Quarter 179.**

An interested party outlined three (3) primary concerns: 1) the uniformity of definitions in the model act with the definitions in the home service white paper; 2) the tone of the model act, and; 3) the requirement that companies disclose when total premiums paid on an insurance policy will exceed the death benefit. The working group began addressing the first two concerns and considered developing a compromise solution for the third issue. **1999 Proc. 3rd Quarter 179.**

#### Section 1. Purpose

#### Section 2. Definitions

"Home Service Marketing Distribution System" is a system of marketing insurance products where the premium income is derived from policies of insurance that are sold, serviced, or collected by agents visiting at the home or business of the insured, owner, or premium payor and where policies are issued on a monthly or more frequent premium payment basis, or by single premium payment and where the agent is charged (debited) with the responsibility for collection of the premium payments. **1999 Proc. 3rd Quarter 172.**

The working group deleted the current 2A, 2B, 2C and 2D. A regulator stated that the working group should clarify that the model act is intended to apply to policies sold at an individual's home even though the premiums are collected through a bank draft. **1999 Proc. 3rd Quarter 172-73.**

An interested party was concerned over the term "agent visiting" contained in the definition as this might encompass products not actually distributed through the home service distribution system. **1999 Proc. 3rd Quarter 172-73.**

An interested party was concerned with the inclusion of single premium payment policies because this may encompass pre-need policies. This was because 60% to 70% of pre-need policies are sold as a single premium product. Another interested party thought that this would not be a problem because most companies do not charge premiums to the agent before the premium is collected as in home service distribution system. **1999 Proc. 3rd Quarter 172-73.**

The working group discussed Section 2E and the face amount of \$20,000 contained in the definition. A regulator questioned if this amount would be adjusted annually with the Consumer Price Index (CPI). Another regulator responded that adjusting the amount annually with the CPI would be administratively burdensome. A regulator responded that he sees less of a need for the disclosure protections as the face amount increases. For instance, he pointed out that as the face amount of the policy increases there is a less chance that the premiums paid on the policy would exceed the face amount. An interested party indicated the average policy marketed through the home service system is approximately \$10,000. An insurer stated that the average monthly debit ordinary (MDO) policy is \$10,000 and that the average MDO policy plus ordinary life insurance is \$16,000. A regulator believes the Virginia statute contains a face amount limit of \$25,000. Another regulator stated that an established face amount should be included in the definition to ensure it does not encompass other products not sold through the home service distribution system. The working group agreed to lower the face amount to \$15,000. **1999 Proc. 3rd Quarter 172-73.**

The working group deleted the reference to "single premium" and included a drafting note clarifying that single premium pre-need policies are not intended to be included within the definition of "Home Service Marketing Distribution System." A regulator agreed to draft additional language clarifying that the disclosure protections of the model act should not depend upon whether a person pays for his/her policy through a bank draft. **1999 Proc. 4th Quarter 139.**

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#### Section 2 (cont.)

The working group discussed the definition of “home service marketing distribution system” and questioned if products sold at a consumer’s home and then paid for by a monthly bank draft would be included in the current definition. A regulator thought the phrase “agent is charged with responsibility for collection of the premium payments” excluded this type of arrangement from the model act. He viewed this as a problem because the required disclosures should not be dependent upon how a person pays his/her premium. An insurer said if insurance policies paid for by bank drafts are included in the definition of “home service,” the definition would be overbroad and will encompass policies distributed through companies that do not utilize the home service distribution system. An interested party said that if the agent is charged with responsibility for the collection of the premium, the product should fall within the purview of the model regardless of how the consumer actually pays the premium. An insurer said that if the consumer has the choice to pay via a bank draft initially, the product should not fall within the definition of “home service.” He also commented that the reference to “single premium” should be stricken from the definition of “home service marketing distribution system” because no products distributed through the home service distribution system are sold on a single premium basis. He also commented that the word “sold” should be deleted from the definition of “home service marketing distribution system” because many policies are sold at consumers’ homes. **1999 Proc. 4th Quarter 139.**

The working group deleted the reference to “single premium” and included a drafting note clarifying that single premium pre-need policies are not within the definition of “home service marketing distribution system.” A regulator agreed to draft additional language clarifying that the disclosure protections of the model act should not depend upon whether a person pays for his/her policy through a bank draft. **1999 Proc. 4th Quarter 139.**

A regulator questioned why “low value” was changed to “small amount” and why the face amount was set at \$15,000 instead of \$25,000. After a brief discussion, the working group agreed to maintain the term “small amount” and \$15,000 as discussed at the NAIC Fall National Meeting. In addition, the working group agreed to incorporate a drafting note stating that each state should review and consider using a dollar amount that is consistent with the average face amount for policies currently distributed through the “home service marketing distribution system” in their state. The regulator recommended suggesting that states use a figure that represents two standard deviations above the industry average for the state. The working group also agreed to include a drafting note that the monetary figure in the model act should not adversely affect states with a higher monetary threshold. **1999 Proc. 4th Quarter 139-140.**

The working group agreed to change the reference to “home service system” used in the model act to “home service marketing distribution system” to be consistent with the definitions. **1999 Proc. 4th Quarter.**

A regulator would not support a definition of “home service” that hinged upon the method of payment and explained that a person should not lose disclosure benefits because premiums are paid by bank draft. The working group agreed to incorporate the following definition of “Home Service” submitted by an interested party: “The home service marketing distribution system is a system in which insurance products are marketed, sold, and/or serviced by agents in person in the home or business of the insured, owner, or premium payor, and 1) the policies are issued on a monthly or more frequent premium payment basis, and 2) collection of premium payments is the agent’s responsibilities even when a payment method other than in-person collection is used.” **2000 Proc. 1st Quarter 566.**

A regulator suggested replacing the second part of an interested party’s definition with “and the agent is charged or debited with the responsibility for collection of the premium payment.” This regulator explained that the terms charged or debited are necessary because the agent is charged with the responsibility of collecting the premium as well as debited for any premiums that he/she fails to collect or remit to the company. An interested party said that a company would not debit an agent’s account unless that company pays commissions in advance. In addition, companies only pay commissions based upon the actual premiums received. **2000 Proc. 1st Quarter 566.**

An interested party suggested that the working group develop a list of excluded products. The model should give the insurance commissioner the discretion to expand the list of excluded products. A regulator expressed some reservations about this approach. The working group agreed to delete the word “marketing” and incorporate the definition into the model act. **2000 Proc. 1st Quarter 566.**

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#### Section 2 (cont.)

An interested party questioned if the Federal Trade Commission's three-day cancellation period applies to products distributed through the home service distribution system. He suggested replacing the Flesch Test standards in the model act with the Plan Language Test recently enacted by the federal government for all government documents. The working group agreed to address both of these issues. **2000 Proc. 1st Quarter 566.**

A regulator directed the working group to the comments received on the April 14, 2000 version of the Home Service Disclosure Model Act. The working group agreed to modify the language in Section 2A(2) to read, "Agents are charged with the responsibilities of servicing the debit, which may include..." The word "would" was replaced with the word "may." **2000 Proc. 2nd Quarter 425.**

An interested party recommended modifying the drafting note appearing immediately after Section 2B in order to clarify that states may choose a different face amount in their definition of small amount life insurance policy. A regulator stated that the term "different" is fair because the states will need to evaluate the appropriate face amount for use in the definition. The working group agreed to modify the drafting note that appears immediately following Section 2B. The drafting note was modified to read, "The face amount specified in Subsection B should not prohibit states from using a different monetary face amount..." It had previously read, "...from using a higher face amount..." **2000 Proc. 2nd Quarter 425.**

A 1997 NAIC position paper entitled "The Sales and Marketing Policies, Auditing and Accounting Procedures and Products of Insurers Utilizing the Home Service System" defines "Home Service" as a method of distribution of insurance policies or contracts through a system whereby initial and renewal premiums of the policy are collected in person by an agent of the company on a monthly or more frequent basis in the ordinary course of business. **2000 Proc. 4th Quarter 141.**

The NAIC Home Service Disclosure Model Act defines "Home Service Distribution System" as a system in which insurance products are marketed, sold, or serviced by agents in person at the home or business of the insured, owner, or premium payer in assigned territories identified as "debit," and

- (1) The policies are issued on a monthly or more frequent premium payment basis; and
- (2) Agents are charged with the responsibilities of servicing the debit, which would include the collection of premium payments in the home or designated location on a monthly or more frequent basis, along with other services normally rendered.

The NAIC Assumption Reinsurance Model Act defines "Home Service Business" as insurance business in which premiums are collected on a weekly or monthly basis by an agent of the insurer. **2000 Proc. 4th Quarter 141.**

#### Section 3. General Disclosure Requirements

The working group discussed Section 3C and agreed that the phrase "small amount" was not necessary because this section applies to fire insurance policies. A regulator stated that Section 3C(1) could be an issue because individuals who purchase policies through the home service distribution system usually buy an amount that is not tied to the value of the property insured. Another regulator said agents are not qualified to determine the market value of the property and suggested that the phrase "estimated market value" is more appropriate. At the combined suggestions regulators, the working group agreed to rewrite Section 3C(1) to read "the amount of insurance coverage is not based on the market value of the property insured and therefore may not cover the full amount of the loss." **1999 Proc. 3rd Quarter 173.**

A regulator presented his suggested rewrite of Section 3A and pointed out that Sections 3A(3) and 3A(4) should be subsections of Section 3A(2) because the disclosures in Sections 3A(3) and 3A(4) are not needed unless the company allows the policyholder to combine multiple policies. The working group replaced Section 3A with the suggested language. **1999 Proc. 3rd Quarter 173.**

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#### Section 3 (cont.)

A discussion among regulators addressed the intent of Section 3B(2) and 3B(3). A regulator believed that these provisions addressed whether disability riders are available for policies distributed through the home service distribution systems. A regulator questioned why there was a need for additional disclosure beyond the listing of the rider in the declaration page and the rider itself. Another regulator responded that the model act needed to clarify that the disclosures are necessary when the policies are combined and not when a policy is issued. **1999 Proc. 3rd Quarter 173.**

Regulators discussed the intent of Section 3B(2) and 3B(3). One regulator interpreted these subsections as addressing the situation when a policy is changed and the potential that the new policy will contain exclusions not present in the old policy. Another regulator pointed out the incontestability clause on the declaration page should address this concern when a policy is first issued and that the replacement disclosure should address this concern when the policy is replaced. **1999 Proc. 3rd Quarter 173.**

A regulator believed that Section 3A(1) should be explicitly related to Section 4A. This regulator stated that Section 3A(1) does not specify that the change of payment will necessarily result in a savings and that Section 4A addresses premium savings. Another regulator pointed out that a change in the method of premium payment could cause the premium payments to increase or decrease. The working group agreed to change Section 3A(1) to read “[w]hether the policyholder is allowed to change the method of premium and any costs associated with that change.” **1999 Proc. 4th Quarter 140.**

The working group agreed to delete Section 3B(2) because the intent and purpose of this subsection is addressed through Section 3A(2)(b). A regulator agreed to submit new language for Section 3B(2) to clarify the intent of this subsection. **1999 Proc. 4th Quarter 140.**

An interested party stated that subsection 3A(2), addressing the combining of policies, was too broad because the ability of a company to combine multiple policies is dependent upon a number of factors. A regulator agreed with these concerns and stated it may be very difficult to combine policies if one policy is still within the contestable period and one policy is outside the contestable period. Another interested party suggested the working group review the language of the NAIC Replacement Model Act as some of these provisions may address some of the issues surrounding the combining of multiple policies. **2000 Proc. 1st Quarter 567.**

The working group agreed to change subsection 3C(1) to “[w]hether the amount of insurance coverage is based on the market value of the property insured. If not, the fire insurance policy shall disclose that it may not cover the full amount of a loss.” **2000 Proc. 1st Quarter 567.**

An interested party suggested deleting the references to combining multiple policies because they may not be in the best interest of the consumer. A regulator indicated that this issue was addressed several times throughout the development of the model and that the working group determined that the concept would remain in the model act. **2000 Proc. 2nd Quarter 425.**

The working group considered recommendations submitted by an interested party regarding language clarifying that disclosures are required at the time the policy is delivered. The working group agreed to add references to Section 3A, Section 3B, and Section 3C. The references will include “at the time an insurance policy is issued...” **2000 Proc. 2nd Quarter 431.**

The working group reviewed comments submitted by an interested party regarding Section 3A(1) asking for clarification of “conditions of change.” A regulator stated that the language in this section should read “and any conditions of that change.” Another regulator suggested that a definition of “conditions of change” is not appropriate for this model. This regulator referred the working group to a letter requesting adding this provision allowing the policyholder to change the method of payment of premiums with notice to the insurer. This regulator also stated that this model is not the place to require companies to provide options for policyholders to change their method of premium payment. **2000 Proc. 2nd Quarter 425.**

A regulator suggested that it would be difficult for a company to appropriately combine multiple policies. This regulator believed that there would be numerous issues as a result of the attempted combination, including complications related to measurement of contestability periods. This regulator suggested removing language in Section 3A(2). In addition “any costs

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#### Section 3 (cont.)

associated with that change” in Section 3A(1) should be replaced with “any conditions of that change.” Another regulator was concerned with removing that language. This regulator suggested retaining the language, but removing 3B(2) instead. The working group discussed this issue further and determined they would not delete the language of 3A(2) at this time. The group determined that the language in 3B(2) could be deleted because it repeats the principles included in 3A(2) and that the revised language for 3A(1) should be included. **2000 Proc. 2nd Quarter 431.**

The working group discussed industry comments asking for replacement of the word “will” with “may” in the phrase, “when the total premiums paid on the insurance policy will exceed the death benefit.” A regulator suggested adding language to the disclosure indicating the date on which the premiums would exceed the face amount as an alternative. Another regulator stated that this language assumes all premiums have been paid. An interested party offered as alternative that all factors such as policy loans, payment of premiums when due, etc., be identified in the disclosure. The working group evaluated the issue and agreed to add the language, “the expected date” to the phrase “shall disclose at the time the policy is issued the expected date when the total premiums paid on the insurance policy will exceed the death benefit.” The working group also agreed that it is not necessary to retain the Subsection 1 label since Section 2 has been removed. **2000 Proc. 2nd Quarter 431.**

An interested party referenced Section 3C(1), which includes the language “may or may not” in the disclosure related to a fire insurance policy covering the full amount of the loss. This party suggested that the words “or may” should be removed so the phrase will read, “If not, the fire insurance policy shall disclose that it may not cover the full amount of the loss.” The working group agreed to modify the language. **2000 Proc. 2nd Quarter 431.**

An insurer indicated that there should be additions to the model regarding when and where the disclosure should occur. The working group agreed that it was not clear whether the disclosure should be included as part of the policy or provided in a separate document. A regulator recommended providing the disclosure in a separate form to ensure it stands out and is noticeable. Several regulators suggested that the form be attached to the policy. An interested party developed a mock disclosure based on the draft model requirements. However, this interested party indicated that there was a preference to attach the form to the policy at their home office because it was easier to assure compliance with established controls in the home office. A regulator recommended adding subsection C to Section 8 identifying the requirement that the disclosure form be attached to the policy at the time of delivery. Section 8A was revised to be consistent with the working group’s approach and Section 8C was added for clarification of the requirement that the disclosure form be attached to the policy. **2000 Proc. 2nd Quarter 430-431.**

A regulator said that the Home Service Disclosure Model Act included a provision in Section 3B disclosing the expected date when the total premiums paid on the policies exceed the death benefit. A commissioner believed that these two models should be consistent. Another commissioner suggested that the small face amount disclosure could exempt home service so that there would not be a conflict. Another alternative suggested changing Subsection B to be the same as the disclosure in the Disclosure for Small Face Amount Policies Model Act. A regulator moved to change the disclosure in the Home Service Disclosure Model Act to match the disclosure in the small face amount disclosure model. An interested party asked that the appendix be included in the Home Service Disclosure Model Act. The working group agreed to this request. **2001 Proc. 3rd Quarter 62.**

An interested party recommended amending Section 3B to recognize the time value of money. A regulator responded that this issue was previously discussed and the working group decided this issue should be addressed through a state-specific administrative bulletin or regulation. Another regulator made a motion to adopt the report of the Home Service Working Group and the Home Service Disclosure Model Act (see NAIC Proceedings 2000 Second Quarter pages 424-432). There was no discussion and the motion unanimously passed. **2000 Proc. 3rd Quarter 386.**

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#### Section 4. Applicability and Scope

The working group discussed the distinction between mode of payment and method of payment. Based upon this discussion, the group recognized that mode of payment addresses the timing of payment (monthly, quarterly, etc.) and that the method of payment addresses the form of payment (check, bank draft, etc.). An interested party pointed out that the mode of payment is specified on policy summaries and that a disclosure requirement focusing on the mode of payment is not necessary. The working group agreed that Section 4A should address both the mode of payment and the method of payment. **1999 Proc. 3rd Quarter 179.**

An interested party pointed out that a receipt for premium payments might not be given if the premium payment is made through a bank draft. Another interested party responded that Section 4 clarifies what disclosures are required and that Section 5 clarifies when a person should receive these disclosures. The working group added the phrase “[w]hen premium payments are made in cash or in person” to the beginning of Subsection 4D. **2000 Proc. 1st Quarter 567.**

An interested party suggested that it was not necessary to use the word “or” in the following phrase in Section 4D, “When premium payments are made in cash or in person, that the consumer is entitled to receive a receipt for premium payments.” The working group determined there could be instances when a receipt is desired and cash is not the payment method, e.g., when the consumer utilizes a money order to make a premium payment. The working group determined they would not modify the language of this section at this time. **2000 Proc. 2nd Quarter 431.**

A commissioner informed the working group that a majority of the NAIC members signed a resolution addressing issues related to the home service industry and the use of race-based premiums and the possibility that the policyholders assigned the premiums based on race did not receive restitution. The commissioner indicated that there were concerns related to the economic value of the low value life insurance products that were sold. Florida recently conducted an investigation of one company’s activities and determined that corrective actions were required. The commissioner was interested in addressing some outstanding issues related to the economic value of low value life insurance policies. The commissioner advised the working group that the Life Insurance and Annuities (A) Committee will form a special group to consider these issues. This new group will address concerns related to the products while maintaining a balanced approach to ensure adequate policyholder protections. A regulator asked if the results of state surveys in this area should be forwarded to the new group for consideration. The commissioner encouraged states that have taken actions related to these issues to provide their information to the new group. The commissioner stated that it was premature to determine whether activities will be limited to the home service distribution system. **2000 Proc. 2nd Quarter 425.**

The working group incorporated reference to “every insurance policy marketed, sold, or serviced...” A regulator suggested requiring a duplicate, numbered, copy of the receipt in Section 4D. Another regulator reminded the working group that it previously determined that it was not practical to require duplicate and numbered receipts. The working group agreed not to modify the language in subsection D. **2000 Proc. 2nd Quarter 426.**

#### Section 5. Evidence of Payment

A regulator questioned whom the term “their” references in the prefatory language of Section 5. Another regulator responded that the term “their” references the agent, solicitor, broker or employee. An interested party commented that Section 5A(1) through 5A(9) might be an issue when the premium is collected through a bank draft because the company relies on the bank records to support when a premium was paid. To address this concern, the working group agreed to add the words “in person” immediately in front of the word “shall” in the prefatory language of Section 5. **1999 Proc. 3rd Quarter 173.**

Several comments expressed concern over the ambiguity of the term “identifying characteristics” contained in Section 5A(7). The working group agreed to change Section 5A(7) to read: “the face amount and type of policy or the kind of policy for which the payment will be credited.” **1999 Proc. 3rd Quarter 173.**

The working group agreed to change the word “legible” in Section 5A(8) to “identifiable” in recognition that many signatures are not legible and that the real issue is whether the agent can be identified. An interested party referenced language regarding electronic signatures being drafted by the NAIC’s Electronic Commerce Working Group. With this, the working group

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#### Section 5 (cont.)

agreed to incorporate this language into the model act as Section 5B and renumber the current Section 5B as 5C. In discussing the new Section 5C, the working group agreed to add the phrase “or proof of deposit on behalf of the policyholder” after the words “the premium collected.” **1999 Proc. 3rd Quarter 173.**

The working group agreed to strike the reference to “life” in the first sentence of Section 6 and change the phrase “home service agent” to “a licensed agent.” **1999 Proc. 3rd Quarter 179.**

At the suggestion of a representative of an insurance trade association, the working group agreed to add the phrase “or deposit in a fiduciary account” immediately after the phrase “Remit to the insurer’s home office or applicable district office.” **2000 Proc. 1st Quarter 567.**

At the suggestion of a representative from an insurance trade association the working group also agreed to add the following sentence immediately prior to the last sentence of section 5: “In the event that the insurer utilizes an accounting system based on a monthly list bill, all premiums collected shall be credited from the date of collection.” This sentence was added in recognition that smaller companies do not have regional offices and that many of these companies have accounting systems based on a 30-day cycle. **2000 Proc. 1st Quarter 567.**

The working group determined that a regulator’s recommendation to add reference to “a unique identification number” was appropriate when included as part of the agent’s identification. The phrase was added to Section 5A(9). **2000 Proc. 2nd Quarter 431.**

The working group considered the recommendation to provide the printed agent name and license number to the information provided in the receipt. A regulator suggested the agent number was not critical but supported the inclusion of the agent name. The working group debated the need to include the agent name and whether there were tracking mechanisms in place allowing identification of the agent. The working group determined the printed name requirement would be added, however, the agent number would not be added at this time. **2000 Proc. 2nd Quarter 431-432.**

An interested party asked the working group about the phrase, “or proof of deposit” in Section 5B. This party suggested that the working group delete the language or explain the meaning of this phrase. A regulator indicated the language would be removed. **2000 Proc. 2nd Quarter 432.**

#### Section 6. Proof of Policy Delivery

A regulator suggested adding the phrase “agent, solicitor or employee acting on behalf of” immediately prior to the words “license agent.” The working group agreed to this suggestion and also agreed to add the phrase “distributed through the home service system” immediately after the phrase “if the insurance policy contract or annuity contract” to clarify that this section only applies to policies distributed through the home services system. The working group agreed to delete the word “annuity” since annuities are not marketed through the home service distribution system. **1999 Proc. 3rd Quarter 174.**

The working group agreed to delete the word “marketing” from this section. The working group also agreed the word “marketing” should be deleted from the model act wherever the phrase “home service marketing distribution” is used. **2000 Proc. 1st Quarter 567.**

The working group determined that a regulator’s recommendation to add reference to “a unique identification number” was appropriate when included as part of the agent’s identification. The phrase was added to Section 5A(9). **2000 Proc. 2nd Quarter 426.**

A regulator asked the working group whether there should also be some type of requirement of proof the disclosure notice was included with the policy. Another regulator indicated that the disclosure form would be attached to the policy and the policy receipt requirement exists, therefore an additional proof is not required. **2000 Proc. 2nd Quarter 432.**

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#### Section 6 (cont.)

A regulator addressed the concern expressed in an insurance trade association letter, which asked that the reference to the retention period in this section be deleted. The regulator indicated the retention period should remain as three years since states will need to review this period as the model is adopted in their state. **2000 Proc. 2nd Quarter 426.**

#### Section 7. Company Duties

The working group agreed that Subsection 7A should specify that written procedures should be available to the commissioner for review and that subsection 7B should be deleted. In addition, the working group agreed to delete the following phrase from subsection 7C: “Conduct audits periodically, or in such manner as described by rules and regulations, at the field level or premium payor level.” Finally, the working group agreed to add a new subsection addressing proof that audits are conducted periodically. **2000 Proc. 1st Quarter 567.**

#### Section 8. Minimum Disclosure Language Simplification Standards

A regulator questioned if the reference to “policy forms” and “disclosure forms” was accurate and whether the disclosures would go into the policy itself or into a separate disclosure form. A regulator suggested the references be changed to “disclosure language.” **2000 Proc. 1st Quarter 567.**

A trade association suggested adding other plain language principles instead of the Flesch test. A regulator suggested that the note in this section be expanded to incorporate language about the National Literacy Secretariat and the Plain Language Action Network. The working group agreed. **2000 Proc. 2nd Quarter 426.**

An insurer asked the working group to consider removing Section 8C, “The disclosure form shall be attached to the policy at the time of delivery.” The working group agreed and asked that it be removed. **2000 Proc. 2nd Quarter 426.**

The working group agreed to change this section to read “All disclosure forms should comply with state readability standards,” and make all language from Section 8A(1) through the end of the section into a drafting note. In addition, the working group agreed that the current drafting note of Section 8 should be modified and moved to the beginning of the new drafting note. **1999 Proc. 3rd Quarter 174.**

A regulator stated that the model act should also require disclosures be made in a person’s primary language. An interested party stated that applications in California are available in Spanish but that policies are still written in English. A regulator indicated the focus should be on providing the disclosures, not necessarily the policy, in a person’s primary language and that regulators may want to consider this requirement based upon the demographics of their state. The regulators agreed to submit draft language to address this issue. **1999 Proc. 3rd Quarter 174.**

#### Section 9. Separability

#### Section 10. Effective Date

The model act is designed to give consumers meaningful disclosures for products that are distributed through the home service distribution system. The regulator added that the model act contains: 1) general disclosure requirements; 2) specific disclosure requirements regarding payment methods; 3) provisions addressing proof of policy delivery; 4) provisions addressing company duties; and 5) language simplification standards for disclosures. **2000 Proc. 3rd Quarter 386.**

A commissioner said that the Home Service Disclosure Model Act was adopted by the Home Service Working Group of the Market Conduct and Consumer Affairs (D) Committee. It provided recommendations for disclosures that should be made to applicants when soliciting insurance through the home service distribution system. This represented a consensus document, and may be helpful to the Small Face Amount Working Group as it considers related issues. Instead of adopting the model, the commissioner recommended forwarding it to the Small Face Amount (A) Working Group, which might want to add recommendations to its provisions. Then it could be forwarded to the D Committee to make sure they are in agreement. **2000 Proc. 3rd Quarter 13.**

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#### Section 10 (cont.)

A regulator said that the most significant change to the model act was the deletion of a date certain/expected date when the total premium paid on an insurance policy exceeded the death benefit. He explained that while the Disclosure for Small Face Amount Life Insurance Policies Model Act developed by the Small Face Amount Working Group requires the insurer to disclose that premiums paid on a policy may exceed the death benefit of the policy, the model act does not require the insurer to specify a date certain/expected date when the total premium paid will exceed the death benefit. **2002 Proc. 1st Quarter 394.**

An interested party supported the standardization of language for the two model acts he does not think the current disclosure is meaningful. He also indicated a date certain should be provided since the person selling the product will be in a better position than the consumer to determine this. He did not support the current disclosure provisions being considered for incorporation into the Home Service Disclosure Model Act. **2002 Proc. 1st Quarter 394.**

A regulator explained the issue of disclosure was just one issue addressed by the Home Service Disclosure Model Act as the model act also addresses the receipt/delivery of policies and payment of policy options. This regulator then moved to adopt the revised Home Service Disclosure Model Act. This motion was seconded and the revised Home Service Disclosure Model Act was unanimously adopted (Attachment Nine). **2002 Proc. 1st Quarter 394.**

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#### *Chronological Summary of Actions*

*2001 Proc. 4<sup>th</sup> Quarter 162-164, 181-185, 186 (model adopted later printed here).*

*2002 Proc. 1<sup>st</sup> Quarter 13, 14, 394 (adopted).*

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