

MASS MARKETING OF PROPERTY AND LIABILITY INSURANCE MODEL REGULATION

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[Insert statement of authority to issue this regulation]

Section 1. Introduction

The purpose of this regulation is to prescribe rules to prevent abuses in connection with the sale of property-liability insurance in this state pursuant to mass marketing plans, while preserving for consumers the potential benefits of this form of marketing.

Section 2. Definitions

As used in this regulation:

- A. “Mass marketing plan” means a method of selling property-liability insurance wherein (i) such insurance is offered to employees of particular employers or to members of particular associations or organizations or to persons grouped in other ways and (ii) the employer, association or organization, if any, has agreed to or otherwise affiliated itself with the sale of such insurance to its employees or members; and
- B. “Property-liability insurance” means insurance to which Sections [insert applicable section] of the Insurance Law applies.

Drafting Note: The term “property-liability insurance” may not be appropriate in every state. It may be necessary, for instance, to make it “property casualty insurance” or to add a specific reference to automobile insurance.

Section 3. Applicability

This regulation shall be applicable only to insurance policies issued or renewed in this state after [insert date], and is in addition to, and not in substitution for, other applicable requirements of the insurance law and department regulations. The requirements of this regulation are not applicable to methods of marketing other than mass marketing plans.

Section 4. Fictitious Arrangement Prohibited

No insurer shall, without the approval of the commissioner, sell insurance pursuant to a mass marketing plan to members of any association or organization formed principally for the purpose of obtaining such insurance.

Section 5. Premium Rates

Premium rates under a mass marketing plan shall comply with the standards in the insurance law, including the standards that rates not be excessive, inadequate or unfairly discriminatory. Rates shall not be deemed to be unfairly discriminatory because different premiums result for policyholders with like loss exposures but different expense factors, or like expense factors but different loss exposures, so long as the rates reflect the differences with reasonable accuracy. Rates shall not be deemed to be unfairly discriminatory if they are averaged broadly among persons insured under a mass marketing plan.

Section 6. Statistics

An insurer selling insurance pursuant to mass marketing plans shall maintain separate statistics as to loss and expense experience pertinent thereto.

Section 7. Producers

No person shall act as an insurance agent or an insurance broker in connection with a mass marketing plan for any kind of insurance unless such person is duly licensed under Section [insert applicable section] of the Insurance Law as an agent or broker for such kind of insurance.

Section 8. Compulsory Participation Prohibited

No insurer shall sell insurance pursuant to a mass marketing plan if it is a condition of employment or of membership in an association, organization or other group that any employee or member purchase insurance pursuant to such plan, or if any employee or member shall be subject to any penalty by reason of his non-participation.

Section 9. Tie-in Sales Prohibited

No insurer shall sell insurance pursuant to a mass marketing plan if (i) the purchase of insurance available under such plan is contingent upon the purchase of any other insurance, product or service; or (ii) the purchase or price of any other insurance, product or service is contingent upon the purchase of insurance available under such plan. This provision shall not be deemed to prohibit the reasonable requirement of safety devices, such as heat detectors, lightning rods, theft prevention equipment and the like.

Section 10. Disclosure Required

Every insurer, agent or broker selling insurance pursuant to a mass marketing plan shall, prior to sale, make full and fair disclosure to prospective insureds of all features of such plan, whether favorable or unfavorable, including but not limited to premium rates, benefits, duration of coverage, policyholder services, conversion privileges available, and the financial interests in the plan, if any, of the sponsoring employer, association, organization or the group.

Section 11. Underwriting Standards

No insurer shall use underwriting standards for individual risk selection in a mass marketing plan which are, on the whole, more restrictive than the standards used by such insurer for individual risk selection in the sale of the same kind of insurance in this state other than pursuant to mass marketing plans. In the event the insurer does not sell such kind of insurance in this state other than pursuant to mass marketing plans, its underwriting standards for individual risk selection in such plans shall, on the whole, be no more restrictive than the standards used by its principal affiliate, if any, for individual risk selection in the sale of such kind of insurance in this state other than pursuant to mass marketing plans.

Section 12. Cancellation and Nonrenewal

- A. For purposes of Sections [insert applicable section] and [insert applicable section] of the Insurance Law, limiting the cancellation and nonrenewal of insurance policies, the failure of an employer, association, organization or other group to remit premiums when due for any reason (including, but not limited to, interruption or termination of employment or membership) shall not be regarded as “nonpayment of premium” by any insured under any such plan providing for remittance of premium by such employer, association, organization or other group, unless such insured shall have been given written notice of such failure to remit and shall not himself have paid such premium by the later of (i) twenty days after such notice or (ii) the due date of such premium remittance under the mass marketing plan.

- B. All mass marketing plans shall provide that upon termination of employment or membership or upon the discontinuance of the mass marketing plan, the insured employee or member may maintain his policy in force for sixty (60) days in the same amount, upon payment of the premium applicable to the class of risk to which he belongs on an individual basis. The option to maintain the insurance in force shall be exercised within thirty (30) days following the date of termination. Any notice of cancellation or nonrenewal of any policy of an employee or member insured under a mass marketing plan shall be accompanied by a notice to the employee or member that, at his request, the insurer will afford the employer, association, organization or other group a reasonable opportunity to consult with the insurer and to present facts in opposition to cancellation or nonrenewal.

Section 13. Compulsory Facilities

An insurer, agent or broker selling insurance pursuant to a mass marketing plan shall, with respect to any employees or members who apply for but are denied insurance under such plan, assist such persons in obtaining insurance through any other appropriate voluntary or mandatory insurance plan, such as the [assigned risk plan] or the [FAIR Plan].

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

1972 Proc. I 15, 58, 59-60 (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	NO CURRENT ACTIVITY	
Alaska	NO CURRENT ACTIVITY	
American Samoa	NO CURRENT ACTIVITY	
Arizona	NO CURRENT ACTIVITY	
Arkansas	NO CURRENT ACTIVITY	
California	NO CURRENT ACTIVITY	
Colorado	5 COLO. CODE REG. § 1-1 (1972/2004)	
Connecticut		CONN. GEN. STAT. §§ 38a-802 to 38a-810 (1971/1984) (Personal lines property and casualty insurance).
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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NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Hawaii		HAW. REV. STAT. §§ 431:12-101 to 431:12-116 (1988) (Motor Vehicle Insurance).
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	NO CURRENT ACTIVITY	
Maine	ME. REV. STAT. ANN. tit. 24-A, §§ 2931 to 2940 (1973/1989).	
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	NO CURRENT ACTIVITY	
New Hampshire	NO CURRENT ACTIVITY	
New Jersey	N.J. ADMIN. CODE §§ 11:2-12.1 to 11:2-12.15 (1974/1996).	

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NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
New Mexico	NO CURRENT ACTIVITY	
New York	N.Y. COMP. CODES R. & REGS. tit. 11, §§ 13.1 to 13.13 (1971) (Regulation 58).	
North Carolina	NO CURRENT ACTIVITY	
North Dakota	NO CURRENT ACTIVITY	
Northern Marianas	NO CURRENT ACTIVITY	
Ohio	NO CURRENT ACTIVITY	
Oklahoma	NO CURRENT ACTIVITY	
Oregon	OR. ADMIN. R. §§ 836-42-300 to 836-42-322 (1983/2005).	
Pennsylvania	NO CURRENT ACTIVITY	
Puerto Rico		P.R. RULE XXXIX (1974).
Rhode Island	NO CURRENT ACTIVITY	
South Carolina	NO CURRENT ACTIVITY	
South Dakota		S.D. CODIFIED LAWS § 58-24-45.1 (1966/2014).
Tennessee	NO CURRENT ACTIVITY	
Texas	NO CURRENT ACTIVITY	
Utah	NO CURRENT ACTIVITY	
Vermont	NO CURRENT ACTIVITY	
Virgin Islands	NO CURRENT ACTIVITY	
Virginia	NO CURRENT ACTIVITY	
Washington	NO CURRENT ACTIVITY	

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NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
West Virginia	W. VA. CODE R. §§ 114-9-1 to 114-9-5 (1972).	
Wisconsin	NO CURRENT ACTIVITY	
Wyoming	NO CURRENT ACTIVITY	