

## GROUP PERSONAL LINES PROPERTY AND CASUALTY INSURANCE MODEL ACT

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### **Section 1. Group Personal Lines Property and Casualty Insurance Definition**

Except as provided in Section 2, no policy of group personal lines property and casualty insurance shall be issued or delivered in this state unless it conforms to one of the following descriptions:

- A. A policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:
  - (1) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietorships or partnerships if the business of the employer and of the affiliated corporations, proprietorships or partnerships is under common control. The policy may provide that the term employees shall include the individual proprietor or partners if the employer is an individual proprietorship or partnership. The policy may provide that the term employees shall include directors of a corporate employer and retired employees. A policy issued to insure the employees of a public body may provide that the term employees shall include elected or appointed officials.
  - (2) The premium for the policy shall be paid either from the employer's funds or from funds contributed by the insured employees, or from both. A policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, except those who reject such coverage in writing.
- B. A policy issued to a labor union or similar employee organization, which shall be deemed to be the policyholder, to insure members of the union or organization for the benefit of persons other than the union or organization or any of its officials, representatives or agents, subject to the following requirements:
  - (1) The members eligible for insurance under the policy shall be all of the members of the union or organization, or all of any class or classes thereof.
  - (2) The premium for the policy shall be paid either from funds of the union or organization, or from funds contributed by the insured members specifically for their insurance, or from both. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, except those who reject such coverage in writing.
- C. A policy issued to a trust, or to the trustees of a fund, established or adopted by two or more employers, or by one or more labor unions or similar employee organizations, or by one or more employers and one or more labor unions or similar employee organizations, which trust or trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions or organizations for the benefit of persons other than the employers or the unions or organizations, subject to the following requirements:

- (1) The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions or organizations, or all of any class or classes thereof. The policy may provide that the term employees shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietorships or partnerships if the business of the employer and of such affiliated corporations, proprietorships or partnerships is under common control. The policy may provide that the term employees shall include the individual proprietor or partners if the employer is an individual proprietorship or partnership. The policy may provide that the term employees shall include directors of a corporate employer and retired employees. The policy may provide that the term employees shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.
  - (2) The premium for the policy shall be paid from funds contributed by the employer or employers of the insured persons, or by the union or unions or similar employee organizations, or by both, or from funds contributed by the insured persons or from both the insured persons and the employers or unions or similar employee organizations. A policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance must insure all eligible persons, except those who reject such coverage in writing.
- D. A policy issued to an association or to a trust or to the trustees of a fund established, created or maintained for the benefit of members of one or more associations. The association or associations shall have at the outset a minimum of one hundred persons and have been organized and maintained in good faith for purposes other than that of obtaining insurance, shall have been in active existence for at least one year, and shall have a constitution and bylaws which provide that (i) the association or associations hold regular meetings not less than annually to further purposes of the members, (ii) the association or associations collect dues or solicit contributions from members, and (iii) the members have voting privileges and representation on the governing board and committees. The policy shall be subject to the following requirements:
- (1) The policy may insure members of the association or associations, employees thereof or employees of members, or one or more of the preceding or all of any class or classes thereof for the benefit of persons other than the employees' employer.
  - (2) The premium for the policy shall be paid from funds contributed by the association or associations, or by employer members, or by both, or from funds contributed by the insured persons or from both the insured persons and the association, associations, or employer members. A policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance must insure all eligible persons, except those who reject such coverage in writing.
  - (3) If compensation of any kind will or may be paid to the policyholder in connection with the group policy, the insurer shall cause to be distributed to prospective insureds a written notice that compensation will or may be paid. Such notice shall be distributed (i) whether compensation is direct or indirect, and (ii) whether such compensation is paid to or retained by the policyholder, or paid to or retained by a third party at the direction of the policyholder or any entity affiliated with the policyholder by ownership, contract or employment. The notice required by this subsection shall be placed on or accompany any document designed for the enrollment of prospective insureds.
- E. The definition of an eligible employee or member may include the spouse of the eligible employee or member.

## **Section 2. Qualifications For Groups Other Than Those Defined in Section 1**

Group personal lines property and casualty insurance offered to a resident of this state under a group personal lines property and casualty insurance policy issued or delivered to a group other than one described in Section 1 shall be subject to the following requirements:

- A. A group personal lines property and casualty insurance policy shall not be issued or delivered in this state unless the commissioner finds that:
  - (1) The issuance of the group policy is not contrary to the best interest of the public;
  - (2) The issuance of the group policy would result in economies of acquisition or administration; and
  - (3) The benefits are reasonable in relation to the premiums charged.
- B. A group personal lines property and casualty insurance coverage shall not be offered in this state by an insurer under a policy issued or delivered in another state unless this state or another state having requirements substantially similar to those contained in Paragraphs (1), (2) and (3) of Subsection A has made a determination that the requirements have been met.

**Drafting Note:** If a state adopting this model act does not want to accept another state's determination of a group's qualification under Subsection 2A, the state should delete in Subsection 2B the following text: "or another state having requirements substantially similar to those contained in Paragraphs (1), (2) and (3) of Subsection A."

- C. The premium for the policy shall be paid either from the policyholder's funds or from funds contributed by the covered persons, or from both.
- D. If compensation of any kind will or may be paid to the policyholder in connection with the group policy, the insurer shall cause to be distributed to prospective insureds, a written notice that compensation will or may be paid. Notice shall be distributed (i) whether compensation is direct or indirect, and (ii) whether such compensation is paid to or retained by the policyholder, or paid to or retained by a third party at the direction of the policyholder or any entity affiliated with the policyholder by ownership, contract or employment. The notice required by this subsection shall be placed on or accompany any document designed for the enrollment of prospective insureds.

### **Section 3. Master Policy**

- A. A master policy shall be issued to the policyholder. Eligible employees or members insured under the master policy shall receive certificates of coverage setting forth a statement as to the insurance protection to which they are entitled.
- B. A master policy or certificate of insurance shall not be issued or delivered in this state unless the master policy form, together with all forms for riders, certificates and endorsements to the master policy form, shall have met the applicable filing requirements in this state. Subsequent amendments to the master policy form or forms for riders, certificates and endorsements to the master policy form shall not be issued or delivered until they have met the applicable filing requirements in this state.
- C. The master policy shall set forth the coverages, exclusions and conditions of the insurance provided therein, together with the terms and conditions of the agreement between the policyholder and the insurer. The master policy shall make express provisions for the following:
  - (1) Methods of premium collection;
  - (2) Enrollment period, effective date provisions and eligibility standards for employees or members;
  - (3) Termination of the master policy; and
  - (4) Conversion privileges of the employees or members.
- D. If the master policy provides for remittance of premium by the policyholder, failure of the policyholder to remit premiums when due shall not be regarded as nonpayment of premium by the employee or member who has made his or her contribution on a timely basis.

**Section 4. Policy Coverage**

- A. The master policy shall provide a basic package of coverages and limits that are available to all eligible employees or members. The package shall include at least the minimum coverages and limits of insurance as required by law in that employee's or member's state of residence or in the state where the subject property is located, if applicable. In addition, the master policy may provide additional coverages or limits to be available at an increased premium to employees or members who qualify under the terms of the master policy.
- B. The master policy shall provide coverage for all eligible employees or members who elect coverage during their initial period of eligibility, which period shall not be less than thirty-one (31) days. Employees or members who do not elect coverage during the initial period and later request coverage shall be subject to the insurer's underwriting standards.
- C. Coverage under the master policy may be reduced only as to all members of a class, and may never be reduced to a level below the limits required by applicable law.
- D. Coverage under the master policy may be terminated as to an employee or member only for:
  - (1) Failure of the employee or member to make required premium contributions;
  - (2) Termination of the master policy in its entirety or as to the class to which the employee or member belongs;
  - (3) Discontinuance of the employee's or member's membership in a class eligible for coverage; or
  - (4) Termination of employment or membership.
- E. If optional coverages or limits are available by law in an employee's or member's state of residence, the policyholder's acceptance or rejection of the optional coverages or limits on behalf of the group shall be binding on the employees or members. If the policyholder rejects any coverages or limits that are required by law to be provided unless rejected by the named insured, notice of the rejection shall be given to the employees or members at or before the time their certificates of coverage are delivered.
- F. Stacking of coverages or limits among separate certificates of insurance is prohibited under a master policy of group personal lines property and casualty insurance; except that, if separate certificates under the same master policy are issued to relatives living in the same household, the state law pertaining to stacking of individual policies shall apply to those certificates.

**Section 5. Group Rating**

- A. No master policy or certificate of insurance shall be issued or delivered in this state unless the rating plan and amendments thereto used in the determination of the master policy premium shall have met the applicable filing requirements in this state.
- B. Group insurance premium rates shall not be unfairly discriminatory if adjusted to reflect past and prospective loss experience or group expense factors, or if averaged broadly among persons insured under the master policy. Nor shall such rates be deemed to be unfairly discriminatory if they do not reflect individual rating factors including surcharges and discounts required for individual personal lines property and casualty insurance policies.
- C. Experience refunds or dividends may be paid to the policyholder of a group personal lines property and casualty insurance policy, if the insurer's experience under that policy justifies experience refunds or dividends. However, if an experience refund or dividend is declared, it shall be applied by the policyholder for the sole benefit of the insured employees or members to the extent that the experience refund or dividend exceeds the policyholder's contribution to premium for the period covered by such experience refund or dividend.

**Section 6. Duties and Limitations of Insurers**

- A. An insurer issuing or delivering group personal lines property and casualty insurance shall maintain separate statistics as to the loss and expense experience pertinent thereto.
- B. No insurer shall issue or deliver a group personal lines property and casualty insurance policy if it is a condition of employment or of membership in a group that any employee or member purchase insurance pursuant to the policy, or if any employee or member shall be subject to any penalty by reason of his or her non-participation.
- C. (1) No insurer shall issue or deliver a group personal lines property and casualty insurance policy if:
  - (a) The purchase of insurance available under the policy is contingent upon the purchase of any other insurance, product or service; or
  - (b) The purchase or price of any other insurance, product or service is contingent upon the purchase of insurance available under the group personal lines property and casualty insurance policy.
- (2) 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. Neither shall this provision be deemed to prohibit the marketing of "package" or "combination" policies.
- D. The insurer's experience from its group personal lines property and casualty insurance policies shall be included in the determination of the insurer's participation in the applicable residual market plans.
- E. For purposes of premium taxes, the insurer shall allocate premiums in accordance with the rules applicable to individual personal lines property and casualty insurance policies, except that any required allocation may be based on an annual survey of insureds. Premiums shall be apportioned among states without differentiation between policyholder or employee or member contributions.

**Section 7. Solicitation, Negotiation or Sale**

- A. A person shall not act in this state as an insurance agent or broker in connection with the solicitation, negotiation or sale of a group personal lines property and casualty insurance policy unless the person is duly licensed in this state as an agent or broker for the applicable lines of insurance. However, none of the following activities engaged in by the insurer or its employees, or the policyholder or its employees, shall require the licensing of such entities or persons as insurance agents or brokers:
  - (1) Endorsement or recommendation of the master policy to employees or members;
  - (2) Distribution to employees or members, by mail or otherwise, of information pertaining to the master policy;
  - (3) Collection of contributions toward premium through payroll deductions or other appropriate means, and remittance of the premium to an insurer; or
  - (4) Receipt of reimbursement from an insurer for actual, reasonable expenses incurred for administrative services, which would otherwise be performed by the insurer with respect to the master policy. However, nothing herein shall supersede any applicable law or regulation that prohibits or regulates splitting of commissions with unlicensed persons, or rebating commissions or premiums.
- B. No countersignature requirements shall apply to a group personal lines property and casualty insurance policy that is issued or delivered in this state pursuant to the provisions of this Act.

**Section 8. Conversion**

- A. Each employee or member covered under the master policy whose coverage thereunder shall terminate for any reason other than the failure to make required contributions toward premiums or at the request of the employee or member, shall receive from the insurer thirty days prior written notice of termination or ineligibility. The notice shall state the reasons for discontinuance of coverage under the master policy, and shall explain the employee's or member's options for conversion to an individual policy.
- B. If within thirty (30) days after receipt of notice of termination or ineligibility, application is made and the first premium is paid to the insurer, the employee or member shall be entitled to have issued to him by the insurer, or an affiliate within the same group of insurers, an individual policy, effective upon termination or ineligibility, with coverages and limits at least equal to the minimum coverages and limits of insurance as required by the applicable state law.
- C. No individual notice of termination as provided in Section 8A and no conversion privilege as provided in Section 8B shall be required if the master policy is replaced by another master policy within thirty (30) days. Coverage under the prior master policy shall terminate when the replacement master policy becomes effective.

**Section 9. Regulatory Jurisdiction**

- A. No master policy or certificate of insurance shall be issued or delivered in this state unless issued or delivered by an insurer which is duly licensed in this state to write the lines of insurance covered by the master policy.
- B. This Act shall not apply to the mass marketing or any other type of marketing of individual personal lines property and casualty insurance policies.
- C. This Act shall not apply to policies of credit property or credit casualty insurance which insure the debtors of a creditor or creditors with respect to their indebtedness.
- D. Nothing in this Act shall limit the authority of the insurance commissioner with respect to complaints or disputes involving residents of this state arising out of a master policy that has been issued or delivered in another state.
- E. The insurance commissioner is authorized after due notice and hearing to promulgate such regulations as may be necessary to carry out the provisions of this Act.

**Section 10. Effective Date**

This Act shall take effect ninety (90) days after its enactment. No master policy or certificate of insurance shall be issued or delivered in this state after the effective date unless issued or delivered in compliance with this Act. A master policy or certificate that is lawfully in effect on the effective date of this Act shall comply with the provisions of this Act within twelve (12) months of the effective date.

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

*1987 Proc. I 11, 19, 736, 737-741 (adopted).*