

**MODEL REGULATION FOR COMPLAINT RECORDS TO BE MAINTAINED
PURSUANT TO THE NAIC UNFAIR TRADE PRACTICES ACT**

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Preface

This regulation is designed to implement provisions of the Unfair Trade Practices Act regarding complaint recordkeeping. A proper record of complaints serves a dual purpose. It assists the Insurance Department in overseeing the performance of its licensees. In addition, it can serve as a valuable management tool. It permits management to quickly determine how well the company is doing in its dealings with its policyholders and the public. It can identify those areas where improvement is necessary and management can direct its attention accordingly. The recordkeeping procedures specified in the regulation are minimum requirements. Insurers are urged, however, to supplement these procedures and to provide for periodic review of the records in order to maximize the value of its complaint records as a management tool.

While "complaint" is defined both in the Act and in this regulation, it will be necessary on occasion to distinguish an inquiry or other communication from a "complaint." Not every contact by a policyholder or claimant questioning some action by the insurer will constitute a "complaint." Differentiating an "inquiry" from a "complaint" will in many cases involve judgment, which we expect to be applied reasonably. The essential question is: has the writer expressed a grievance? One person who calls your attention to a typographical error in the spelling of his name on a policy may merely be passing on information. Another may be expressing a grievance. The distinction lies in the language used in the letter and in a reasonable interpretation of that language.

Section 1. Authority

This regulation is promulgated pursuant to the authority granted by Section [insert applicable section] of the Unfair Trade Practices Act.

Section 2. Purpose

Section [insert applicable section] of the Unfair Trade Practices Act makes it an unfair trade practice for a person subject to the Act to fail to maintain a record of complaints as specified in such section. The purpose of this regulation is to prescribe the minimum information required to be maintained in such a record of complaints in order to comply with the statute and to set forth a format for such record which may be used by any person subject to this regulation.

Section 3. Content of Complaint Record

Attachment A of this Regulation sets forth the minimum information required to be contained in a person's complaint record in order for it to comply with the statute. Refinements and additions to the information specified therein may, of course, be maintained in such complain record. Attachment B of this regulation contains an explanation of the various headings, codes and other notations contained in Attachment A. The codes are used in order to simplify both the identification of the action underlying the complaint and the keeping of the records.

Section 4. Format of Complaint Record

Attachment A is the suggested format for the complaint record required to be maintained by the statute and this regulation. Refinements, deviations from or additions to this suggested format are permitted so long as the minimum information contemplated by such format can be obtained for Insurance Department review within a reasonable time following a request therefore by an authorized representative of the Department.

Section 5. Maintenance of the Record

The complaint record shall be kept on a calendar year basis and the number of complaints by line of insurance, function, reasons, disposition, and state of origin shall be compiled not less frequently than annually.

The complaint record required by this regulation shall be maintained on and after the date sixty (60) days after the effective date of this regulation.

Section 6. Definitions

As used herein:

- A. "Person" shall have the meaning set forth in Section [insert applicable section] of the Unfair Trade Practices Act;
- B. "Complaint" shall mean a written communication primarily expressing a grievance;
- C. "Insurance department complaint" shall mean a written communication regarding a complaint transmitted by the Insurance Department.

Section 7. Effective Date

This regulation is effective on [insert date].

**ATTACHMENT A
Complaint Record Format**

Column A	Column B	Column C	Column D	Column E	Column F	Column G	Column H
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Company Identification Number (Agent's Number) (Staff Adjuster's Number) (Independent Adjuster)	Function Code	Reason Code	Line Type	Company Disposition after Complaint Receipt	Date Received	Date Closed	Insurance Department Complaint	State of Origin
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ATTACHMENT B

Explanation

Column

- A. Company Identification Number. As noted, this refers to the identification number of the complaint and shall also include the license number or other means of identifying any licensee of the Insurance Department (such as agent, staff adjuster or independent adjuster) that may have been involved in the complaint.
- B. Function Code. Complaints are to be classified by function(s) of the company involved. Separate classifications are to be maintained for underwriting, marketing and sales, claims, policyholder service and miscellaneous.

Reason Code. Complaints are also to be classified by the nature of the complaint. The following is the classification required for each function specified above.

1. Underwriting
 - a. Company underwriting
 - b. Individual's application underwriting (this refers to any complaint where misrepresentations or declarations in an application for insurance resulted in company action involved in the complaint)
 - c. Cancellation
 - d. Rescission
 - e. Nonrenewal
 - f. Premiums and rating
 - g. Delays
 - h. Refusal to insure
 - i. Miscellaneous (not covered by above)
2. Marketing and Sales
 - a. General advertising
 - b. Mass marketing advertising - (advertising which is essentially directed to reach more people than in a one to one relationship)
 - c. Agent handling
 - d. Replacement
 - e. Dividend illustration
 - f. Delays
 - g. Alleged misleading statement or misrepresentation

- h. Miscellaneous (not covered by above)
- 3. Claims
 - a. Claims procedure
 - b. Delays
 - c. Unsatisfactory settlements
 - d. Natural disaster adjusting (hurricane or flood situations or other situations which produce a large number of claims)
 - e. Unsatisfactory settlement offers
 - f. Denial of claim
 - g. Miscellaneous (not covered by above)
- 4. Policyholder service
 - a. Failure to respond
 - b. Delays
 - c. Miscellaneous (not covered by above)
- 5. Miscellaneous

C. Line Type. Complaints are to be classified according to the line of insurance involved, as follows:

- 1. Automobile
- 2. Fire
- 3. Homeowners--Farmowners
- 4. Crop
- 5. Inland Marine
- 6. Individual Life
- 7. Group Life
- 8. Annuities
- 9. Individual Health -- Accident & Sickness
- 10. Group Health -- Accident & Sickness
- 11. Workmen's Compensation
- 12. Liability Insurance other than Automobile

13. Mobile Homeowners
14. Miscellaneous (not covered by above)

D. Company Disposition After Receipt. The complaint record shall note the disposition of the complaint.

The following examples illustrate the type of information called for, but are not intended to be required language or to exhaust the possibilities:

1. Corrective action was taken.
2. No action was deemed necessary.
3. Satisfactory explanation was given to the complainant.

The complaint record need not note the specific action taken with respect to the complaint, so long as the action was appropriate to the circumstances. If the company wishes, it may use a code for entries in this column.

- E. Date Received. This refers to the date the complaint was received.
- F. Date Closed. This refers to the date on which the complaint was disposed of whether by one action or a series of actions as may be present in connection with some complaints.
- G. Insurance Department Complaint. Complaints are to be classified so as to indicate if the origin of the complaint was from an Insurance Department.
- H. State of Origin. The complaint record should note the state from which the complaint originated. Ordinarily this will be the state of residence of the complainant.

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

*1973 Proc. I 9, 11, 140, 170, 171-172 (adopted).
1973 Proc. II 18, 21, 370, 404, 405-409 (amended).
1974 Proc. I 12, 14, 272, 281, 282-286 (amended and reprinted).*

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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		ALASKA STAT. § 21.36.185 (1997).
American Samoa	NO CURRENT ACTIVITY	
Arizona	NO CURRENT ACTIVITY	
Arkansas	ARK. CODE R. § 44 (1989).	
California	NO CURRENT ACTIVITY	
Colorado	6 COLO. CODE REGS. § 2-1 (1974).	BULLETIN B-1.13 (2013).
Connecticut	CONN. AGENCIES REGS. §§ 38a-819-50 to 38a-819-57 (1978).	
Delaware		18 DEL. CODE REGS. § 907 (2005); BULLETIN 09-005-IB (2009).
District of Columbia	NO CURRENT ACTIVITY	
Florida	NO CURRENT ACTIVITY	

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NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Georgia		GA. CODE ANN. § 33-2-33 (1989) (Commissioner’s duty to compile complaints).
Guam	NO CURRENT ACTIVITY	
Hawaii	NO CURRENT ACTIVITY	
Idaho	NO CURRENT ACTIVITY	
Illinois	ILL. ADMIN. CODE tit. 50, §§ 926.10 to 926.70 (1977/1999).	
Indiana	NO CURRENT ACTIVITY	
Iowa		IOWA ADMIN. CODE r. 191-15.13 1997/2003).
Kansas	KAN. ADMIN. REGS. § 40-1-35 (1981/1986) (adopted by reference).	
Kentucky		806 KY. ADMIN. REGS. 2:050 to 2:070 (1975).
Louisiana		LA. REV. STAT. ANN. § 22:1467 (1990).
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	

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NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Nebraska	210 NEB. ADMIN. CODE § 21 (1973/1994).	
Nevada		NEV. ADMIN. CODE §§ 689A.605 to 689A.615 (1999/2002).
New Hampshire		BULLETIN 05-052-AB (2005).
New Jersey	N.J. ADMIN. CODE §§ 11:4-17.6 to 11:4-17.8 (1980/1996).	
New Mexico	13 N.M. CODE R. §§ 7.3.1 to 7.3-12 (1997).	
New York	NO CURRENT ACTIVITY	
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. REV. STAT. § 731.288 (1965/2010).
Pennsylvania	NO CURRENT ACTIVITY	
Puerto Rico	NO CURRENT ACTIVITY	
Rhode Island	NO CURRENT ACTIVITY	
South Carolina	NO CURRENT ACTIVITY	
South Dakota		H.B. 1189 (2010).
Tennessee	NO CURRENT ACTIVITY	
Texas	28 TEX. ADMIN. CODE §§ 21.2501 to 21.2507 (1999).	

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NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Utah	NO CURRENT ACTIVITY	
Vermont	76 VT. CODE R. § 1 (1976).	
Virgin Islands	NO CURRENT ACTIVITY	
Virginia	NO CURRENT ACTIVITY	
Washington	NO CURRENT ACTIVITY	
West Virginia	NO CURRENT ACTIVITY	
Wisconsin	NO CURRENT ACTIVITY	
Wyoming	NO CURRENT ACTIVITY	