

## PROJECT HISTORY - 2002

### MANAGING GENERAL AGENTS MODEL ACT (#225)

#### 1. Project Description

The Managing General Agents Model Act provides the basic regulatory framework for monitoring producers who have been classified as Managing General Agents (MGAs). While the initial review of the model act was begun to help create a reciprocal licensing system for MGAs, regulators and interested parties recognized that MGAs, in most states, must first be licensed producers and would be afforded licensing reciprocity under the reciprocity provisions of the NAIC Producer Licensing Model Act. In addition to reviewing licensing reciprocity for MGAs, the working group revised the model act to clarify the definition of an MGA, modify the bond requirements for MGAs, and update the duties of an insurer.

#### 2. Group Responsible for Drafting Model and States Participating

The Agent Licensing Working Group of the Market Conduct and Consumer Affairs (D) Committee was responsible for revising the model act. Gene Reed (DE) and Sam Meyer (SD) co-chaired the working group. The following states were members of the working group: Alabama, Alaska, Arizona California, Colorado, Connecticut, District of Columbia, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, Montana, Nebraska, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Texas, Virginia, Washington and Wisconsin.

To help facilitate the drafting process, the Agent Licensing Working Group appointed the Managing General Agents Model Act Subgroup. Gene Reed (DE) chaired this subgroup. The initial subgroup was comprised of Nebraska, South Dakota and Texas. As the drafting process proceeded all members of the Agent Licensing Working Group were invited to join the subgroup.

The MGA subgroup, the Agent Licensing working group and the Market Regulation & Consumer Affairs (D) Committee unanimously adopted the revisions to the model act.

#### 3. Charge Authorizing Project

The D Committee had the following charge during 2001: Appoint a working group to complete the review of the existing NAIC Managing General Agents Model Act and Third Party Administrator Statute. Consider modifications to the models to recognize that there have been and will be changes that will impact the delivery systems of insurance products and that this changing environment will require flexibility in regulating the production of insurance through various methodologies and technologies. Report by the NAIC Fall National Meeting.

#### 4. General Description of Drafting Process

The drafting process was very open as the working group and subgroup solicited comments from all interested parties, including interested regulators, funded consumer representatives and industry representatives. The working group and subgroup also solicited key concerns from interested parties and funded consumer representatives. All of the meetings and conference calls of the working group, subgroup and the Market Conduct and Consumer Affairs (D) Committee were open to all interested parties. All revised drafts of the paper were posted on the NAIC website and circulated for public comment. The working group and subgroup received and reviewed numerous comments from interested parties.

#### 5. Significant Issues Raised

The definition of an MGA was modified to provide a claim settlement threshold of \$10,000. The prior version of the model act provided each state insurance commissioner with the discretion to determine the claim settlement threshold amount. Greater uniformity regarding what producers fall within the classification of an MGA should be achieved through a uniform claim settlement threshold amount. A drafting note was added to the model act to clarify that some producers may consider themselves MGAs even though they do not legally meet the criteria of being an MGA and thus subject to additional regulatory oversight.

The bond requirement was modified to be a minimum of \$100,000 or ten percent (10%) of the managing general agent's total annual written premium nationwide for each insurer for which it acts as an MGA for the prior calendar year, not to

exceed \$500,000 for each insurer. The bond shall be kept on file with each insurer with which the managing general agent has a contract.

The requirement for an insurer to maintain on file a financial examination of each MGA with which it does business was modified to coincide with the financial responsibility requirements of the recently revised Third Party Administrator Statute. The MGA model act now requires the insurer to have on file an independent audited annual financial statement or reports for the two (2) most recent fiscal years that prove that the MGA has a positive net worth. If the MGA has been in existence for less than two (2) fiscal years, the MGA shall include financial statements or reports, certified by an officer of the MGA and prepared in accordance with GAAP.

#### **6. Other Pertinent Information**

While there are a handful of states that issue a separate MGA license, the majority of states classify currently licensed producers as MGAs. Because of this, MGAs are already afforded licensing reciprocity under the reciprocity provisions of the NAIC Producer Licensing Model Act.

The revisions to the model act should help ensure states classify producers as MGAs in a uniform manner. In addition, the modifications to the bond requirements and financial responsibility requirements should help ensure greater regulatory oversight and financial stability of MGAs.