

EXECUTIVE (EX) COMMITTEE

Executive (EX) Committee, Aug. 11, 2022, Minutes

Executive (EX) Committee Interim Meeting Report (Attachment One)

Executive (EX) Committee Task Force Reports (Attachment Two)

Adopted Request for NAIC Model Law Development Regarding the *Property and Casualty Insurance Guaranty Association Model Act* (#540) (Attachment Three)

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SharePoint/NAIC Support Staff Hub/Member Meetings/2022 Summer National Meeting/Contents

Draft Pending Adoption

Draft: 8/24/22

Executive (EX) Committee
Portland, Oregon
August 11, 2022

The Executive (EX) Committee met in Portland, OR, Aug. 11, 2022. The following Committee members participated: Dean L. Cameron, Chair (ID); Chlora Lindley-Myers, Vice Chair (MO); Andrew N. Mais, Vice President (CT); Jon Godfread, Secretary-Treasurer (ND); David Altmaier, Most Recent Past President (FL); Lori K. Wing-Heier (AK); Michael Conway (CO); Trinidad Navarro (DE); Doug Ommen (IA); James J. Donelon (LA); Gary D. Anderson (MA); Kathleen A. Birrane (MD); Anita G. Fox (MI); Glen Mulready (OK); Andrew R. Stolfi (OR); Carter Lawrence (TN); and Scott A. White (VA).

1. Adopted the Aug. 10 Report of the Executive (EX) Committee and the Internal Administration (EX1) Subcommittee

Director Cameron reported the Executive (EX) Committee met Aug. 10 in joint sessions with the Internal Administration (EX1) Subcommittee. The meeting was held in regulator-to-regulator session, pursuant to paragraph 4 (internal or administrative matters of the NAIC or any NAIC member) and paragraph 6 (consultations with NAIC staff members related to NAIC technical guidance) of the NAIC Policy Statement on Open Meetings.

During this meeting, the Committee and Subcommittee took the following action: 1) adopted its June 21 and Spring National Meeting minutes; and 2) the Committee's April 13 minutes.

The Committee and Subcommittee also: 1) adopted the report of the Audit Committee, which met Aug. 3 and May 16 and took the following action: a) discussed potential revenue changes for the 2023 budget; b) received the June 30 financial update; c) selected a new financial audit firm; d) discussed grant and zone financials, including potential changes for 2023 member grant and zone funding; e) heard an update on the ERP project; f) affirmed the 2023 Audit Committee charter; g) heard an update on the 2023 budget calendar; h) received the 2021/2022 Service Organization Control (SOC) 1 and SOC 2 audit reports; and i) approved the Target Reserve Policy.

The Committee and Subcommittee also: 1) adopted the report of the Internal Administration (EX1) Subcommittee, which met July 7 and took the following action: a) received the March 31 Long-Term Investment Portfolio report; and b) received the March 31 Defined Benefit Portfolio report.

The Committee and Subcommittee also: 1) approved the Member Services Staffing Fiscal; 2) approved the ERP Fiscal; 3) heard the chief executive officer/chief operating officer (CEO/COO) report; 4) heard an update on the *State Connected* strategic plan; 5) received an update on the proposed 2023 NAIC budget; 6) heard an update on the use of NAIC designations by foreign jurisdictions; 7) heard a cybersecurity report; and 8) heard a diversity, equity, and inclusion (DE&I) report.

Commissioner Altmaier made a motion, seconded by Commissioner Mais, to adopt the Aug. 10 report of the joint meeting of the Executive (EX) Committee and the Internal Administration (EX1) Subcommittee. The motion passed unanimously.

2. Adopted its June 21 Interim Meeting Report

Commissioner Altmaier made a motion, seconded by Director Wing-Heier, to adopt the Executive (EX) Committee's June 21 interim meeting report (Attachment One). The motion passed unanimously.

Draft Pending Adoption

3. Adopted the Reports of its Task Forces

Commissioner Altmaier made a motion, seconded by Commissioner Godfread, to adopt the reports of the: 1) Climate and Resiliency (EX) Task Force; 2) Government Relations (EX) Leadership Council; 3) Long-Term Care Insurance (EX) Task Force; and 4) Special (EX) Committee on Race and Insurance (Attachment Two). The motion passed unanimously.

4. Adopted a Request for NAIC Model Law Development Regarding Model #540

Commissioner White reported that on July 21, the Financial Condition (E) Committee adopted a Request for NAIC Model Law Development to amend the *Property and Casualty Insurance Guaranty Association Model Act* (#540). This request was originally proposed by the Restructuring Mechanisms (E) Working Group, which is charged with developing a white paper related to insurance business transfers (IBTs) and corporate divisions (CDs).

During that Working Group's discussion, it was identified that Model #540 needs to be amended with regard to how policyholders retain guaranty fund coverage for IBT and CD transactions. The Working Group forwarded the request to the Receivership and Insolvency (E) Task Force, which discussed the proposal and sent it to the Financial Condition (E) Committee for its consideration.

Commissioner White made a motion, seconded by Commissioner Donelon, to adopt the Request for NAIC Model Law Development to develop amendments to Model #540 (Attachment Three). The motion passed unanimously.

5. Adopted a Request for NAIC Model Law Development to Draft the New Insurance Consumer Privacy Protection Model Law

Commissioner Birrane reported that the Privacy Protections (H) Working Group adopted the Request for NAIC Model Law Development to replace the *NAIC Insurance Information and Privacy Protection Model Act* (#670) and the *Privacy of Consumer Financial and Health Information Regulation* (#672) with one new model during its Aug. 2 meeting, with Nebraska opposing. The Innovation, Cybersecurity, and Technology (H) Committee adopted the request during its Aug. 10 meeting.

Commissioner Birrane made a motion, seconded by Commissioner Godfread, to draft the new Insurance Consumer Privacy Protection Model Law (Attachment Four). The motion passed unanimously.

6. Adopted the Revisions to the NAIC Consumer Participation Plan of Operation

Commissioner Conway reported that the Consumer Board of Trustees adopted the Plan of Operation for the Consumer Participation Program during the Spring National Meeting. Revisions were made to Section 2.F. and Section 2.J.

The revisions to Section 2.F. would expand the pool of potential consumer board members to include unfunded consumer representatives. It would also require consumer board members to have served as a consumer representative for at least two years, rather than one year.

The revisions to Section 2.J. would allow no change to the Plan of Operation to be taken by the Board without prior disclosure to and opportunity for comment by current consumer representatives of the proposed changes.

Commissioner Conway made a motion, seconded by Director Wing-Heier, to adopt the revisions to the NAIC Consumer Participation Plan of Operation (Attachment Five). The motion passed unanimously.

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7. Received a Status Report on the NAIC *State Ahead* Strategic Plan Implementation

Director Cameron provided an update on NAIC *State Ahead* implementation efforts. *State Ahead* is a three-year strategic plan for the organization intended to further advance the products, services, and support the NAIC provides to state insurance regulators in order to better meet the changing regulatory landscape. Overall, NAIC staff continue to make good progress on the many *State Ahead* projects (Attachment Six). Planning has begun at the member level for the next iteration of the strategic plan.

8. Received a Report of Model Law Development Efforts

Director Cameron presented a written report on the progress of ongoing model law development efforts (Attachment Seven).

9. Heard a Report from the NIPR Board of Directors

Superintendent Dwyer reported that the National Insurance Producer Registry (NIPR) Board of Directors met Aug. 9. NIPR has continued to have a strong financial performance for the first half of the year. Revenue at the end of June was 9.5% above budget.

NIPR continues to implement the Contact Change Request service for business entities, which allows industry to update – in one place through NIPR – email, telephone, and address changes required by states. To date, NIPR has 32 state insurance departments using the service. This service provides an electronic solution for the states and industry, reducing time and cost for industry and state insurance regulators.

NIPR will participate in the NAIC Insurance Summit held in Kansas City, MO. The Producer Licensing Track will include sessions on producer licensing education, an adjuster licensing roundtable, an update on NIPR initiatives, and a regulator/industry DE&I session relating to the distribution of insurance.

10. Heard a Report from the Compact

Commissioner Birrane reported that the Interstate Insurance Product Regulation Commission (Compact) will meet Aug. 12.

The Compact had a successful year in 2021, receiving more than 1,500 product filing submissions and collecting and remitting more than \$3.66 million in state filing fees. Throughout 2021, the Compact conducted a thorough form and actuarial review in an average of 27 days. The Compact ended 2021 with a positive net revenue of almost \$800,000.

For the first six months of 2022, the filing activity has not been as robust as companies implement the prior filings, although it is expected to pick up in the second half of the year.

Through the end of June, the Compact received more than 450 submissions and collected and remitted \$1.5 million in state filing fees, with an average review time of 25 days.

Commissioner Birrane reported that the Compact distributed a Value of Services to all Compacting states showing the value each state receives, not only in retaining all applicable state filing fees but, more importantly, the value of the operational services the organization performs for each state. For most states, the value of Compact membership is between \$1.5 million and \$2 million each year.

Draft Pending Adoption

On July 13, the Compact officers hosted a roundtable session in New York City, NY, bringing together nearly 50 attendees, including 12 commissioners, three state legislators, a consumer representative, industry association representatives, and representatives from 12 companies. During the roundtable, participants shared perspectives on the Compact and discussed, in breakout groups, the strengths, challenges, and next bold ideas for the organization. The feedback was positive and the Compact is planning another roundtable in Omaha, NE, scheduled for Oct. 26.

Commissioner Birrane noted that during its Aug. 12 meeting, the Compact will consider adoption of Position Statement 1-2022, which addresses the 2020 Colorado Supreme Court ruling on a matter involving a provision in a Compact-approved insurance policy that was consistent with the Compact's Uniform Standards but conflicted with a state statute. By adopting the Position Statement, the Compact will have an official position that it received a form of congressional consent from Congress in 2006 when a federal law was enacted consenting to the District of Columbia joining the Compact and delegating the powers thereunder to the Compact.

Commissioner Birrane gave special recognition to the National Council of Insurance Legislators (NCOIL) and the National Conference of State Legislatures (NCSL), which both passed resolutions at their respective summer meetings reaffirming their support of the Compact. NAIC members worked closely with members of these legislative organizations in the development and implementation of the Compact, with both endorsing the legislation in 2004. As part of their respective resolutions, each organization indicated its support for adoption of the Position Statement by the Compact.

The Compact will continue discussions and pursue changes to its procedures to provide flexibility for states to raise specific concerns regarding a Uniform Standard and meaningful conflict with state law.

The Governance Committee will be recommending changes to the suicide exclusion provision in the life Uniform Standards to address the conflict that was the subject of the Colorado opinion.

The Audit Committee will vote to select the Compact's independent audit firm for the next three to five years.

The Compact will conduct a public hearing on rulemaking around expanding the use of Compact-approved products beyond employer-employee groups. The Rulemaking Committee has developed a framework and proposed operating procedure to ensure companies are following state laws with respect to the types of groups, including non-employer groups, that can sell group products approved by the Compact.

Having no further business, the Executive (EX) Committee adjourned.

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Draft: 8/3/22

EXECUTIVE (EX) COMMITTEE

June 21, 2022

Summary Report

The Executive (EX) Committee met June 21, 2022, in regulator-to-regulator session, pursuant to paragraph 4 (internal or administrative matters of the NAIC or any NAIC member) of the NAIC Policy Statement on Open Meetings. During this meeting, the Committee:

1. Received an update on the NAIC's 2022 financials and an overview of preliminary work on the 2023 budget.
2. Approved the Catastrophe Modeling Center of Excellence (COE) Fiscal Impact Statement.
3. Approved the Variable Annuity Model Office Fiscal Impact Statement.
4. Received an update on the Enterprise Resource Planning (ERP) project.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 Summer National Meeting/Att 1 InterimMtgRpt.docx

Draft: 8/10/22

REPORT OF THE EXECUTIVE (EX) COMMITTEE TASK FORCES

Climate and Resiliency (EX) Task Force—The Climate and Resiliency (EX) Task Force met Aug. 11 and took the following action: 1) adopted its March 21 minutes, which included the following action: a) adopted a proposal for the Center for Insurance Policy and Research (CIPR) to create a Catastrophe Model Center of Excellence (COE); and b) adopted the revised Climate Risk Disclosure Survey for states to use voluntarily at their discretion; 2) heard a presentation from Zurich North America and Resilient Cities Network on their partnership to improve community resilience; 3) heard a presentation from Munich Reinsurance America on solutions to improve community flood mitigation; and 4) heard a federal update.

Government Relations (EX) Leadership Council—The Government Relations (EX) Leadership Council did not meet at the Summer National Meeting. The Leadership Council meets weekly in regulator-to-regulator session, pursuant to paragraph 8 (consideration of strategic planning issues) of the NAIC Policy Statement on Open Meetings, to discuss federal legislative and regulatory developments affecting insurance regulation.

Long-Term Care Insurance (EX) Task Force—The Long-Term Care Insurance (EX) Task Force will meet Aug. 12 and anticipates the following action: 1) adopting its Spring National Meeting minutes; 2) receiving a report on the implementation of the Long-Term Care Insurance Multistate Rate Review Framework (LTCI MSA Framework), which is expected to be implemented by September; 3) hearing a report on industry trends and factors affecting reserve levels; 4) hearing a report on the LTCI Multistate Actuarial (MSA) Associate Program; and 5) hearing a presentation on a CIPR research project on reduced benefit options (RBOs) and discussing potential future research in this area. At the Spring National Meeting, in addition to previously reported actions, the Task Force disbanded the Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup.

Special (EX) Committee on Race and Insurance—The Special (EX) Committee on Race and Insurance will meet Aug. 11 and anticipates the following action: 1) adopting its Spring National Meeting minutes; and 2) receiving reports from its five workstream; 3) hearing an update on the State Diversity Leaders Forum; 4) hearing a presentation on diversity from the District of Columbia Department of Insurance, Banking and Securities, and 5) hearing an update on the Collaboration Forum on algorithmic bias.

- Workstream One of the Special Committee has been researching the level of diversity and inclusion within the insurance sector and developing recommendations on action steps state insurance regulators and companies can take. The Workstream met in regulator-to-regulator session in May to begin discussing draft recommendations that reflect discussions with stakeholders and state insurance regulators. The Workstream plans to meet after the Summer National Meeting to continue its work on completing these recommendations.
- Workstream Two of the Special Committee distributed the zone-level best practices survey responses during the Commissioners' Mid-Year Roundtable. Workstream Two's recent work continues to be facilitated by Evelyn Boswell, NAIC Director of Diversity, Equity & Inclusion (DE&I), through the Member Diversity, Equity & Inclusion Forum. The best practices survey responses have been made available to Forum members as they share best practices and discuss promoting diversity in their respective insurance departments. The Member Diversity, Equity & Inclusion Forum last met in July, where Philip Barlow, Associate Commissioner for Insurance at the District of Columbia Department of Insurance, Securities and Banking, shared how the Department is expanding DE&I outreach through various community partnerships.

- Workstream Three of the Special Committee is focused on property/casualty (P/C) insurance issues. The Workstream has been engaged with the Collaboration Forum addressing how bias within digital decisional systems and complex predictive models driven by artificial intelligence (AI)/machine learning (ML) can result in unfair discrimination. The Collaboration Forum serves as the platform in identifying and addressing foundational issues to develop a common framework that can inform the work product of Workstream Three. Leadership of Workstream Three has been actively involved with the Collaboration Forum and plans to leverage the foundational education related to algorithmic bias in order to consider regulatory approaches to addressing unfair discrimination in the P/C insurance market. The Workstream plans to first consider potential bias within the marketing of insurance products. The Workstream is planning a session at the NAIC's Insurance Summit in September to hear from insurers and experts on insurance marketing and advertising.
- Workstream Four of the Special Committee is focused on life insurance. The Workstream met June 10 and heard a presentation from the Financial Alliance for Racial Equity (FARE). The Workstream continues to focus on its charge to "continue research and analysis related to insurance access and affordability issues, including the marketing, distribution, and access to life insurance products in minority communities, including the role that financial literacy plays." The Workstream plans to meet following the Summer National Meeting to hear additional presentations to inform its work.
- Workstream Five of the Special Committee has been meeting monthly since the Spring National Meeting. During these meetings, the Workstream has heard from various stakeholders, such as consumer groups, academics, and industry related to these issues with a focus on benefit design and consumer empowerment. The Workstream's next meeting is Aug. 23, during which it will hear from presenters on issues related to barriers to care with respect to plan benefit design.

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Adopted by the Executive (EX) Committee, 8/11/22
Adopted by the Financial Condition (E) Committee, 7/21/22

REQUEST FOR NAIC MODEL LAW DEVELOPMENT

This form is intended to gather information to support the development of a new model law or amendment to an existing model law. Prior to development of a new or amended model law, approval of the respective Parent Committee and the NAIC's Executive Committee is required. The NAIC's Executive Committee will consider whether the request fits the criteria for model law development. Please complete all questions and provide as much detail as necessary to help in this determination.

Please check whether this is: New Model Law or Amendment to Existing Model

1. Name of group to be responsible for drafting the model:

Receivership Law (E) Working Group of the Receivership and Insolvency (E) Task Force to complete the drafting.
Referred by the Restructuring Mechanisms (E) Working Group.

2. NAIC staff support contact information:

Jane Koenigsman
jkoenigsman@naic.org
816-783-8145

Dan Daveline
ddaveline@naic.org
816-783-8134

3. Please provide a brief description of the proposed new model or the amendment(s) to the existing model. If you are proposing a new model, please also provide a proposed title. If an existing model law, please provide the title, attach a current version to this form and reference the section(s) proposed to be amended.

- ***Property and Casualty Insurance Guaranty Association Model Act (#540)***

In 2019, the Financial Condition (E) Committee formed the Restructuring Mechanisms (E) Working Group who was charged with the following:

1. Evaluate and prepare a white paper that:
 - a. Addresses the perceived need for restructuring statutes and the issues those statutes are designed to remedy. Also, consider alternatives that insurers are currently employing to achieve similar results.
 - b. Summarizes the existing state restructuring statutes.
 - c. Addresses the legal issues posed by an order of a court (or approval by an insurance department) in one state affecting the policyholders of other states.
 - d. Considers the impact that a restructuring might have on guaranty associations and policyholders that had guaranty fund protection prior to the restructuring.
 - e. Identifies and addresses the legal issues associated with restructuring using a protected cell.

Background for Proposed Change

This proposed change is being precipitated by discussions within the NAICs Restructuring Mechanisms (E) Working Group initiative, which is focused on documenting in the form of a White Paper, the various issues related to insurance business transfers (IBT) and corporate division (CD) transactions. The number of states adopting laws that permit either of these transactions is still relatively low; however, one of the most significant issues that has been discussed during the meetings of the Working Group is the need for policyholders subject to such transactions to retain guaranty fund coverage. Representatives of the National Conference of Insurance Guaranty Funds (NCIGF) have suggested that an amendment to a state's guaranty fund act, or other related law, is necessary to address this issue. They have specifically suggested that the NAIC update the Property and Casualty Insurance Guaranty Association Model Act,

and they have developed specific language to address this issue. An amendment will better enable those states that have incorporated #540 into their laws to update their laws for this important issue, to ensure policyholders in all states retain their coverage. Because guaranty association coverage follows the state of licensure rather than the state of domicile, adequately addressing these concerns is necessary regardless of the type of transfer and regardless of how few states adopt changes to their laws to allow IBT and CD transactions.

Scope of the Proposed Revisions to Model 540

The scope of the request is limited to addressing the issue of continuity of guaranty fund coverage when a policy is transferred from one insurer to another. The request is therefore to the specific proposal to revise the definition of “Covered Claim” within #540, or other language determined to be appropriate to address the need for continuity of protection. The following is the additional language (underlined language) that has been proposed to be added to Section 5, Definitions, within #540.

H. “Covered claim” means the following:

- (a) The claimant or insured is a resident of this State at the time of the insured event, provided that for entities other than an individual, the residence of a claimant, insured or policyholder is the State in which its principal place of business is located at the time of the insured event; or
- (b) The claim is a first party claim for damage to property with a permanent location in this State.
- (c) Notwithstanding any other provision in this Act, an insurance policy issued by a member insurer and later allocated, transferred, assumed by or otherwise made the sole responsibility of another insurer, pursuant to a state statute providing for the division of an insurance company or the statutory assumption or transfer of designated policies and under which there is no remaining obligation to the transferring entity (commonly known as “Division” or “Insurance Business Transfer” statutes), shall be considered to have been issued by a member insurer which is an Insolvent Insurer for the purposes of this Act in the event that the insurer to which the policy has been allocated, transferred, assumed or otherwise made the sole responsibility of is placed in liquidation.
- (d) An insurance policy that was issued by a non-member insurer and later allocated, transferred, assumed by or otherwise made the sole responsibility of a member insurer under a state statute described in subsection (a) shall not be considered to have been issued by a member insurer for the purposes of this Act.

4. Does the model law meet the Model Law Criteria? Yes or No (Check one)

(If answering no to any of these questions, please reevaluate charge and proceed accordingly to address issues).

a. Does the subject of the model law necessitate a national standard and require uniformity amongst all states? Yes or No (Check one)

If yes, please explain why:

This proposed change is needed to ensure policyholders in all states retain their guaranty fund coverage, which is necessary regardless of how few states adopted changes to their laws to allow IBT and CD transactions.

It should be noted that with respect to guaranty fund coverage for life and health insurance, the National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) is suggesting a different approach to address the same issue in the life and health context. NOLHGA’s proposal centers around the need for such transaction to require the assuming or resulting insurer to be licensed in all states where the issuing insurer was licensed or ever was licensed to retain the needed coverage for policyholders.

b. Does Committee believe NAIC members should devote significant regulator and Association resources to educate, communicate and support this model law?

Yes or No (Check one)

5. What is the likelihood that your Committee will be able to draft and adopt the model law within one year from the date of Executive Committee approval?

1 2 3 4 5 (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary:

6. What is the likelihood that a minimum two-thirds majority of NAIC members would ultimately vote to adopt the proposed model law?

1 2 3 4 5 (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary: See previous discussion.

7. What is the likelihood that state legislatures will adopt the model law in a uniform manner within three years of adoption by the NAIC?

1 2 3 4 5 (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary:

At this juncture, the changes in concepts being considered are simple and because they have the potential to reduce expenses incurred by receivership estates, we believe such changes will be widely supported by all parties.

8. Is this model law referenced in the NAIC Accreditation Standards? If so, does the standard require the model law to be adopted in a substantially similar manner?

Not referenced in Accreditation Standards.

9. Is this model law in response to or impacted by federal laws or regulations? If yes, please explain.

No.

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Adopted by the Executive (EX) Committee – 8/11/22

Adopted by the Innovation, Cybersecurity, and Technology (H) Committee – 8/10/22

Adopted by the Privacy Protections (H) Working Group – 8/2/22

REQUEST FOR NAIC MODEL LAW DEVELOPMENT

This form is intended to gather information to support the development of a new model law or amendment to an existing model law. Prior to development of a new or amended model law, approval of the respective parent committee and the NAIC's Executive (EX) Committee is required. The NAIC's Executive (EX) Committee will consider whether the request fits the criteria for model law development. Please complete all questions and provide as much detail, as necessary, to help in this determination.

Please check whether this is: New Model Law or Amendment to Existing Model

1. Name of group to be responsible for drafting the model:

Privacy Protections (H) Working Group

2. NAIC staff support contact information:

Lois E. Alexander
Market Regulation Manager II lalexander@naic.org
816-783-8517

3. Please provide a brief description of the proposed new model or the amendment(s) to the existing model. If you are proposing a new model, please also provide a proposed title. If an existing model law, please provide the title, attach a current version to this form, and reference the section(s) proposed to be amended.

Proposed Title: *Insurance Consumer Privacy Protection Model Law*

The NAIC's models addressing data privacy—*NAIC Insurance Information and Privacy Protection Model Act* (#670) and *Privacy of Consumer Financial and Health Information Regulation* (#672)—were adopted several decades ago. After studying this issue over the past two years, the Privacy Protections (H) Working Group has determined that a new model law is necessary to enhance the consumer protections and the corresponding obligations of entities licensed by the insurance department to reflect the extensive innovations that have been made in communications and technology over these decades.

4. Does the model law meet the Model Law Criteria? Yes or No (Check one)

(If answering no to any of these questions, please reevaluate charge and proceed accordingly to address issues).

a. Does the subject of the model law necessitate a national standard and require uniformity amongst all states? Yes or No (Check one)

If yes, please explain why:

Access to consumer data by insurance companies, insurance producers, and their third-party vendors has multiplied exponentially via the internet, telematics, and other data tracking technology. This, in turn, has increased the use of complex algorithms, including machine learning (ML) and artificial intelligence (AI). State insurance regulators applying current model law and regulation requirements to consumer privacy notifications have encountered questions about the extent of consumer ownership and control of the use of such consumer data by the insurance industry. Consumers are faced with opt-in/opt-out decisions that leave questions as to whether they may have given away their rights to control their personal data, much of which insure do not even need to determine insurability and risk.

b. Does Committee believe NAIC members should devote significant regulator and Association resources to educate, communicate and support this model law?

Yes or No (Check one)

5. What is the likelihood that your Committee will be able to draft and adopt the model law within one year from the date of Executive (EX) Committee approval?

1 2 3 4 5 (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary: The Privacy Protections (H) Working Group has a work plan in place that is posted on the Working Group's web page and drafting groups committed to drafting and adopting revisions to Models #670 and Model #672 by the 2023 Summer National Meeting.

6. What is the likelihood that a minimum two-thirds majority of NAIC members would ultimately vote to adopt the proposed model law?

1 2 3 4 5 (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary: NAIC members are aware of the need for a new model law to enhance consumer privacy protections via notifications and education to consumers regarding standards for licensees and their third-party vendors responsibilities regarding collection, use, and disclosure of consumers' information.

7. What is the likelihood that state legislatures will adopt the model law in a uniform manner within three years of adoption by the NAIC?

1 2 3 4 5 (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary:

8. Is this model law referenced in the NAIC Accreditation Standards? If so, does the standard require the model law to be adopted in a substantially similar manner?

It is not.

9. Is this model law in response to or impacted by federal laws or regulations? If yes, please explain.

The federal Gramm-Leach-Bliley Act (GLBA), enacted in 1999, imposed privacy and security standards on financial institutions and directed state insurance commissioners to adopt certain data privacy and data security regulations. Model #672 is the regulation adopted in response to the GLBA. The new model will include GLBA data privacy standards and replace Model #672.

2021 Redline RevOne – May 28, 2021

**Reflects Edits Adopted by the NAIC/Consumer Board of Trustees on April 7, 2019
Adopted by NAIC/Executive (EX) Committee on June 25, 2019.**

**PLAN OF OPERATION
NAIC CONSUMER PARTICIPATION PROGRAM
April 11, 2017**

The National Association of Insurance Commissioners (NAIC) is the U.S. standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia and five U.S. territories. Through the NAIC, state insurance regulators establish standards and best practices, conduct peer review, and coordinate their regulatory oversight. NAIC staff supports these efforts and represents the collective views of state regulators domestically and internationally. NAIC members, together with the central resources of the NAIC, form the national system of state-based insurance regulation in the U.S.

The mission of the NAIC is to assist state insurance regulators, individually and collectively, in serving the public interest and achieving the following fundamental insurance regulatory goals in a responsive, efficient and cost-effective manner, consistent with the wishes of its members:

*Protect the public interest;
Promote competitive markets;
Facilitate the fair and equitable treatment of insurance consumers;
Promote the reliability, solvency and financial solidity of insurance institutions; and
Support and improve state regulation of insurance.*

To promote consumer representation and participation in the NAIC, the Consumer Participation Program was established by the NAIC.

Section 1. Mission

The mission of the NAIC Consumer Participation Program is to assist the NAIC in its efforts to support state insurance regulation by providing consumer views on insurance regulatory issues.

Section 2. NAIC Consumer Participation Board of Trustees

- A. The NAIC Consumer Participation Board of Trustees (Board) shall consist of 12 members: six NAIC members and six funded consumer representative members.
- B. The current president of the NAIC, or his or her designee shall serve as Chairperson of the Board.
- C. The NAIC Executive Committee shall annually appoint the NAIC members of the Board at the beginning of each year.
- D. Board appointments of the six NAIC members shall be confirmed by the NAIC Executive Committee during the first quarter of the year.
- E. The term of service for the six NAIC members of the Board shall be one year, which shall begin on January 1 and conclude on December 31.
- F. Each December, the six NAIC members serving on the current Board shall appoint to the board six funded consumer representatives, chosen from those who will serve in the upcoming year to serve on the Board in the following year. The consumer representatives selected to serve on the Board shall have served for at least one two years as a NAIC-funded consumer representative.

- G. Consumer Members of the Board shall serve staggered, two-year terms with three different consumer members of the Board rotating on and off the Board annually; however, each must submit a recertification form for the second year of their term. NAIC members of the Board will review second-year recertification forms to determine if there is a reason a consumer representative should not continue to serve on the Board. If no reason is determined, the designated consumer representatives shall serve the second year of his or her two-year term.
- H. Consumer representatives shall be asked to indicate their interest to serve on the Board when they apply to be funded consumer representatives.
- I. The Board may meet in person or via teleconference to conduct its business.
- J. Meetings of the Board are not public meetings and matters discussed are to be kept confidential unless publicly disclosed by the Chairperson of the Board. However, no change to the Plan of Operation may be taken by the Board without prior disclosure to and opportunity for comment by current consumer representatives of the proposed changes.
- K. A consumer representative Board member may be removed by a majority vote of the Board (four of the six NAIC members and four of the six consumer representative members) whenever, in their judgment, the best interests of the Board would be served thereby. Prior to the vote, the consumer representative Board member under consideration for removal will be afforded an opportunity to address the Board and present justification for retention of his or her Board seat and /or to answer any questions of the Board members.
- L. If a vacancy occurs on the Board prior to October 1 due to the resignation or removal of a Board member, a new Board member shall be appointed to serve out the remainder of the term. If the open position is that of an NAIC Member, a replacement shall be appointed by the NAIC Officers. If the open position is that of a funded Consumer Representative, a replacement shall be appointed by the NAIC Members of the Board. No replacement will be appointed for a vacancy on the Board that occurs on or after October 1.

Section 3. Duties of the Board

- A. The Board shall administer the Consumer Participation Program:
 - 1. By the end of the calendar year prior to the new term, the current Board shall select the NAIC funded and unfunded consumer representatives to serve in the next calendar year.
 - 2. The Board may also remove a designated consumer representative by a majority vote of the Board (four of the six NAIC members and four of the six consumer members) whenever the representative no longer meets the consumer representative qualifications; or, whenever in its judgment, the best interests of the Consumer Participation Program would be served, thereby. Prior to the vote, the designated consumer representative under consideration for removal will be afforded an opportunity to address the Board and present justification for retention of his or her designation and/or to answer any questions of the NAIC Board members.
 - 3. At the last national meeting of each year, the Chairperson of the NAIC Consumer Participation Board of Trustees shall provide the NAIC Executive (EX) Committee with an annual report summarizing the Board's activities for the year, as well as the consumer participation in the Program.

Section 4. Consumer Representatives

- A. Consumer representatives must possess a commitment to and experience with consumer advocacy regarding insurance regulatory issues.
- B. Applicants may apply to be designated funded or unfunded consumer representatives.

Section 5. Consumer Representative Application Process

- A. By August 31 of each year, a link for web access to the blank consumer representative applications shall be posted on the NAIC website along with: 1) a statement that the NAIC encourages those individuals and consumer advocacy groups with a commitment to and experience with consumer advocacy regarding insurance regulatory issues; 2) a statement describing the NAIC and its services to the state insurance departments; 3) a schedule of the NAIC meetings for the following year and their locations; 4) a list of the NAIC committees and their memberships; 5) an explanation that the role of the consumer representatives at NAIC meetings is to serve as a liaison to the consumer advocacy community and to offer the consumer perspective; and 6) the following statement:

The NAIC provides an equal opportunity for all applicants and does not discriminate based on: race, creed, color, sex, sexual orientation, gender identity or expression, religion, age, national origin or ancestry, handicap or disability, marital status, pregnancy, genetic information, veteran or military status or any other status protected by law.

- B. Prospective consumer representatives are required to submit fully completed applications to the NAIC by October 31. (Partial or late applications will not be considered.) To be considered a fully completed application, the applicant must:
1. Submit a copy of his or her organization's by-laws, if available, reflecting the organization's mission to represent consumer interests and promote consumer protection, if the applicant is applying as a representative of a consumer organization.
 2. Submit a completed and signed application with all required attachments.
 3. Submit a signed NAIC Conflict of Interest Statement to disclose conflicts, if any, and acknowledge the NAIC's expectation that he or she will notify the Board of any potential conflict of interest as soon as one arises during the year. The Board will determine if a conflict exists and what action may be required on a case-by-case basis.

Section 6. Consumer Representative Qualifications

- A. Applicants for the position of NAIC consumer representative shall:
1. Demonstrate a commitment to and experience with consumer advocacy regarding insurance regulatory issues;
 2. Demonstrate an expertise in insurance regulatory issues;
 3. Demonstrate an ability to effectively advocate for consumers in a collegial, respectful and professional manner;
 4. Commit to attending regular NAIC meetings absent exceptional circumstances, and commit to participating on NAIC conference calls, including calls among consumer representatives; and
 5. Only be considered for reappointment if he or she attends NAIC meetings and participates in NAIC meetings and NAIC calls.
- B. Applicants for a funded representative position must describe in detail the applicant's need for NAIC funding, including his or her current source of funding. If he or she is applying as a consumer representative of an organization, he or she must submit the organization's most current annual budget.
- C. At the completion of the selection process, successful applicants will be notified of his or her appointment as either a funded or unfunded consumer representative.
- D. The current Board will determine if unsuccessful applicants for funded positions may be considered for unfunded positions.

Section 7. Reimbursement of Expenses

NAIC funded consumers shall submit expense reports itemizing the costs of attending NAIC meetings according to the NAIC Funded Consumer Representative Guidelines for Reimbursement of Expenses located on the NAIC Consumer Participation web site.

Unfunded consumer representatives will not receive reimbursement for travel expenses from the NAIC but are eligible for other benefits, including waiver of the NAIC national meeting registration fees.

Section 8. Designated Consumer Representative Term

Designated consumer representatives are appointed by NAIC and consumer members of the Board and shall serve two-year terms; however, each must submit a recertification form for the second year of the term.

NAIC and consumer members of the Board will review recertification forms to determine if there is a reason a designated consumer representative should not continue to serve. If no reason is determined, the designated consumer representatives shall serve the second year of his or her two-year term.

Section 9. Representatives Chosen to Represent an Organization

A consumer representative chosen to represent an organization will be expected to resign their position if the representative ceases to be affiliated with the organization or if the organization ceases to exist.

Such a representative may apply to be an individual, independent consumer representative during the next annual application period.

Section 10. Further Information

Information about the NAIC Consumer Participation Program (application deadline, selection criteria, etc.) and complete listings of the current NAIC Funded and Unfunded Consumer Representatives can be found on the NAIC website.

Section 11. NAIC/Consumer Liaison Committee

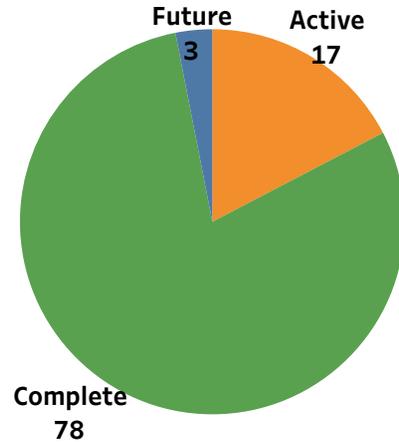
- A. The purpose of the NAIC Consumer Liaison Committee is to assist the NAIC in its mission to support state insurance regulation by providing consumer views on insurance regulatory issues. The Liaison Committee provides a forum for ongoing dialogue between NAIC members and NAIC consumer representatives.
- B. To promote participation at NAIC meetings, the agenda of the NAIC Consumer Liaison Committee shall be set and distributed no later than 21 days prior to the next NAIC national meeting by the Chairperson of the NAIC Consumer Liaison Committee in consultation with one of the six consumer members of the Consumer Participation Board of Trustees. Any amendments made to this agenda are subject to the approval of the Chairperson of the NAIC Consumer Liaison Committee.

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State Ahead Status Reporting - July 2022

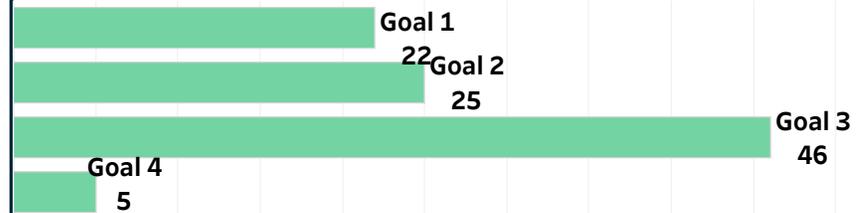
Current Project Phase



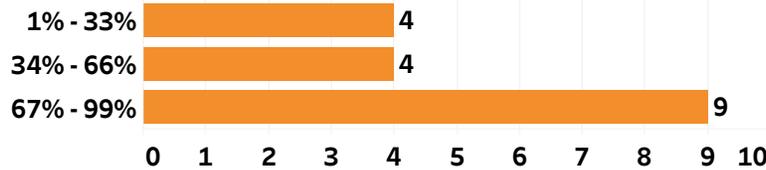
Projects by Strategic Themes



Projects by Strategic Goals



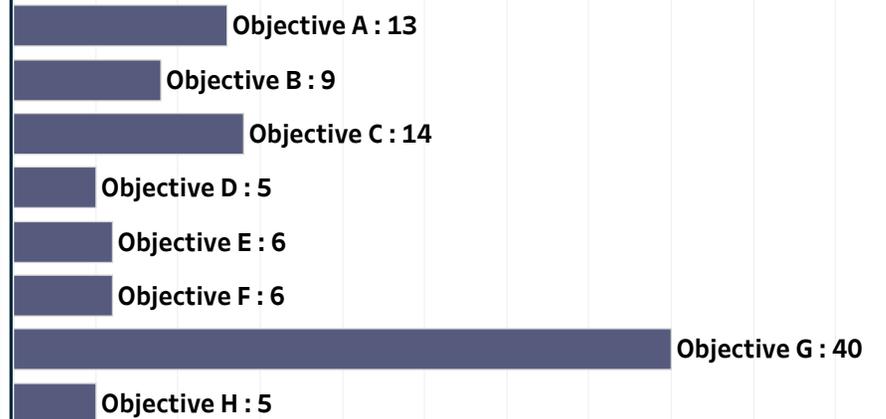
Progress On Active Projects



Current Status of Active Projects



Projects by Strategic Objectives



Draft: 8/3/22

Model Law Development Report

Amendments to the *Model Regulation to Implement the Accident and Sickness Insurance Minimum Standards Model Act (#171)*—Amendments to Model #171 are required for consistency with the federal Affordable Care Act (ACA). Therefore, they did not require approval of a Request for NAIC Model Law Development by the Executive (EX) Committee. At the 2015 Fall National Meeting, the Regulatory Framework (B) Task Force discussed the proposed revisions to this model. The Task Force met Feb. 11, 2016, and appointed the Accident and Sickness Insurance Minimum Standards (B) Subgroup to work on revisions to this model. The Subgroup has been meeting on a regular basis since the 2016 Spring National Meeting, and it plans to continue meeting until it completes its work. During its meetings, the Subgroup has discussed several issues, including its approach for revising the model's disability income insurance coverage provisions, and it decided preliminarily to review the Interstate Insurance Product Regulation Commission's (Compact's) approach.

After pausing its work due to the ACA's potential repeal, replacement, or modification—and the possible impact on the provisions of this model, as well as the Subgroup's preliminary proposed revisions to the model—the Subgroup began meeting again in May 2018. Revisions to the *Supplementary and Short-Term Health Insurance Minimum Standards Model Act (#170)* were adopted by the full NAIC membership at the 2019 Spring National Meeting. The Subgroup has been meeting to consider revisions to Model #171 for consistency with the revised Model #170 since the 2019 Summer National Meeting discussion on comments received on Sections 1–5 of Model #171. In December 2019, the Subgroup set a public comment period ending Feb. 7, 2020, to receive comments on Sections 6–7 of Model #171. Due to the COVID-19 health emergency, the Subgroup has not scheduled any meetings. Any future meetings will depend on when a new co-chair is appointed and the duration of the COVID-19 health emergency. As requested, the Subgroup received comments from stakeholders on Sections 6–7 of Model #171. A new Subgroup co-chair has been appointed. The Subgroup met June 7, 2021, to discuss the status of the proposed revisions to Model #171 and its next steps. The Subgroup decided to establish a new public comment period ending July 2, 2021, to receive comments on Sections 1–7 of Model #171. The Subgroup did not meet at the 2021 Fall National Meeting. Since the 2021 Summer National Meeting, the Subgroup has been meeting to discuss possible revisions to Model #171 based on the comments received by the July 2, 2021, public comment deadline. The Subgroup recently finished its work on revisions in Section 7 of Model #171 related to indemnity products and disability income protection products. Over the next few months, the Subgroup plans to meet to continue its discussions of revisions to provisions in Section 7 of Model #171.

Amendments to the *Mortgage Guaranty Insurance Model Act (#630)*—The Executive (EX) Committee approved a Request for NAIC Model Law Development for amendments to Model #630 at the 2013 Summer National Meeting. The Mortgage Guaranty Insurance (E) Working Group has developed proposed changes to the model, which have been exposed for comment, and subsequent changes have been made to address the comments. However, for some time, the Working Group was focused on the development of a capital model, which is currently incorporated as a requirement in the model, but further changes are expected to be made to that model before adoption can occur. The Working Group received an extension from the Financial Condition (E) Committee until the 2023 Spring National Meeting.

Amendments to the *Nonadmitted Insurance Model Act (#870)*—The Executive (EX) Committee approved a Request for NAIC Model Law Development for amendments to Model #870 at the 2021 Spring National Meeting. The amendments will modernize the model and bring it into alignment with the federal Nonadmitted and Reinsurance Reform Act (NRRRA). The Surplus Lines (C) Task Force met Aug. 5, 2021, and appointed a drafting group to work on the revisions to Model #870. The drafting group met four times in 2021: Sept. 28, Oct. 20, Nov. 4, and

Dec. 1. The drafting group also met in regulator-to-regulator session on Jan. 10, 2022, and May 3, 2022, to discuss a couple of specific issues and administrative tasks. The Surplus Lines (C) Task Force exposed Model #870 on May 23, 2022, for a 60-day public comment period that ended on July 21, 2022. The drafting group reconvened the week of July 31, 2022, to discuss the comments received.

New Model: Pet Insurance Model Act—The Executive (EX) Committee approved a Request for NAIC Model Law Development at the 2019 Summer National Meeting. The Pet Insurance (C) Working Group held numerous meetings to draft the model law to define a regulatory structure for pet insurance and address issues such as producer licensing, policy terms, coverages, claims handling, premium taxes, disclosures, arbitration, and preexisting conditions. The Working Group adopted the Pet Insurance Model Act on July 21, 2022, and the Property and Casualty Insurance (C) Committee adopted the Model on Aug. 1, 2022. The Pet Insurance Model Act will be considered by the Executive (EX) Committee and Plenary at the 2022 Summer National Meeting.

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