

PROJECT HISTORY - 2021

REAL PROPERTY LENDER-PLACED INSURANCE MODEL ACT (#631)

1. Description of the Project, Issues Addressed, etc.

The Creditor-Placed Insurance Model Act Review (C) Working Group was appointed in May 2015 with a charge to review information from a 2012 public hearing on lender-placed insurance (LPI) and determine if changes were needed to the *Creditor-Placed Insurance Model Act (#375)* having to do with creditor-placed automobile insurance. The Working Group met throughout 2015, 2016 and 2017 to review a New York regulation and Florida orders concerning LPI. In 2017, the Working Group began discussing the need to split the topics of personal property and real property into two different sections or two different models. In July 2017, the Working Group decided it would need to split the personal property from real property into two different models, and the Property and Casualty Insurance (C) Committee adopted a Request for NAIC Model Law Development on July 18, 2017.

In 2018, the Property and Casualty Insurance (C) Committee appointed the Lender-Placed Insurance Model Act (C) Working Group to only focus on drafting a new model related to lender-placed homeowners' insurance.

2. Name of Group Responsible for Drafting the Model and States Participating

The 2020 members of the Lender-Placed Insurance Model Act (C) Working Group were: Florida (Chair), Rhode Island (Vice Chair), Alaska, California, Connecticut, District of Columbia, Louisiana, Mississippi, North Dakota, Oklahoma, Texas, Virginia and Wisconsin.

3. Project Authorized by What Charge and Date First Given to the Group

On July 18, 2017, the Property and Casualty Insurance (C) Committee adopted a Request for NAIC Model Law Development. In 2018, the Property and Casualty Insurance (C) Committee appointed the Lender-Placed Insurance Model Act (C) Working Group to only focus on drafting a new model related to lender-placed homeowners' insurance.

4. A General Description of the Drafting Process (e.g., drafted by a subgroup, interested parties, the full group, etc). Include any parties outside the members that participated

The Lender-Placed Insurance Model Act (C) Working Group reviewed sections of the Real Property Lender-Place Insurance Model Act (Model) on various conference calls and asked for comments on an ongoing basis throughout 2017 and 2018. A draft of the Model was exposed in March 2018, and it was discussed on Sept. 18, 2018. The final draft of the Model was exposed on Oct. 19, 2020, through Nov. 3, 2020.

Numerous written comments were submitted to the Working Group, including from the Center for Economic Justice (CEJ); the National Consumer Law Center (NCLC), a joint industry group made up of the American Bankers Association (ABA), the Consumer Credit Industry Association (CCIA), the Council of Insurance Agents & Brokers, the National Association of Mutual Insurance Companies (NAMIC), and the American Property Casualty Insurance Association (APCIA); as well as numerous states.

5. A General Description of the Due Process (e.g., exposure periods, public hearings, or any other means by which widespread input from industry, consumers and legislators was solicited)

Once the focus of the Model was limited to real property in 2018, the Lender-Placed Insurance Model Act (C) Working Group exposed the draft of a new model law for real property LPI in March 2018 for a 45-day public comment period ending April 30, 2018. On Sept. 18, 2018, the Working Group reviewed comments received, as well as a new draft of the Model reflecting those comments. The Working Group exposed the new draft through Oct. 31, 2018.

The Working Group met Oct. 19, 2020, to hear from commenters on the most recent version of the proposed Model and to expose the Model for a 15-day public comment period ending Nov. 3, 2020.

On Nov. 13, 2020, the Working Group met to hear from commenters and review new edits to the Model made by Rhode Island. The Working Group agreed to several changes to the Model and unanimously adopted the Model during this conference call.

6. A Discussion of the Significant Issues (items of some controversy raised during the due process and the group’s response)

Scope of the Model: Early on, consideration was given to revising Model #375 so that it would include both personal property and real property. The Lender-Placed Insurance Model Act (C) Working Group decided to create a new model focused on real property, and a model law request was adopted by the Property and Casualty Insurance (C) Committee on July 18, 2017. In its 2018 charges, the Working Group was charged with only creating a new model focused on real property.

Tracking Expenses and Review of Rates: Some commenters wanted a prohibition of tracking expenses because they said servicers are paid for tracking, and the practice of allowing insurers to provide free tracking and recoup the cost from LPI premiums is unfair. Working Group members argued that states retain the authority to review expenses in rate filings and judge whether expenses are appropriate to pass to consumers. The Working Group agreed to revise Section 9B to read: “The Commissioner shall review the rates to determine whether the rates are excessive, inadequate or unfairly discriminatory. This analysis shall include a determination as to whether expenses included by the insurer in the rate are appropriate.”

Loss Ratios: Some commenters argued for a lower loss ratio threshold. The Working Group agreed to a drafting note following Section 9G that reads: “The 35% trigger for re-filing rates is not intended to be nor should be interpreted as a loss ratio standard for determining whether rates are excessive or inadequate. The loss ratio standard in this section is solely directed to prompt a re-filing of rates by the insurer.”

Single and Dual-Interest: Some commenters argued that only dual-interest LPI be permitted because the borrower is named as an additional insured with dual-interest and has some rights to file a claim under the policy. The Working Group found most policies to be dual-interest, and it decided not to include a prohibition of single-interest LPI within the Model.

7. Any Other Important Information (e.g., amending an accreditation standard).

None.