

GUIDELINE FOR PAYMENT OF INTEREST TO RECEIVER ON OVERDUE REINSURANCE RECOVERABLES

Drafting Note: The Receivership and Insolvency (E) Task Force examined concerns for the timing and collection of reinsurance recoverables held by insurers in receivership. In 2009, a survey was conducted with receivers regarding the status of reinsurance recoverables held by insurers in receivership. The Receivership Reinsurance Recoverables (E) Working Group was given the charge to review the survey responses and recommend possible solutions that potentially address those concerns. On March 27, 2011, the Receivership and Insolvency (E) Task Force adopted the memorandum - *Draft of Solutions Identified to Address Concerns for the Timing and Collection of Reinsurance Recoverables Held by Insurers in Receivership*. The memorandum suggested a solution with respect to Interest on Overdue Payments, which is intended to bring leverage against reinsurers by requiring them to pay interest applicable to delayed payments. The Guideline is intended for use by receivers in instances where a reinsurer unjustifiably denies payment after such time as a claim under its reinsurance agreements has been shown to be properly due and owed. The following statutory language is not an amendment to the NAIC receivership models and is not intended to affect other rights and responsibilities under receivership law, but is intended as a Guideline for use by those states seeking to permit a receiver to collect the payment of interest on overdue reinsurance recoverables:

Payment of Interest on Overdue Reinsurance Recoverables

If a reinsurer does not pay the amount billed by the receiver for a valid claim within 90 days after the billing date, interest on the billed amount will begin to accrue at the statutory legal rate provided in Subsection [fill in state reference], except that all or a portion of the interest may be waived as part of an arbitration proceeding or by the receivership court.

- (1) For purposes of this section, the term “valid claim” shall mean a claim that has been allowed by the liquidator, rehabilitator, receiver or conservator.
- (2) If requested by the reinsurer, a hearing shall be held to determine whether a claim is a valid claim. If a court determines that the claim is a valid claim, then the reinsurer shall be liable for interest, court costs and costs of recovery for the receiver from the date that the request for payment was first made by the receiver.
- (3) Interest will be payable by the reinsurer to the receiver under this section regardless of whether the reinsurance contract expressly permits payment of interest.

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

2014 Proc. 3rd Quarter, Vol. I 121, 135, 140, 253-255 (adopted).

Guideline for Stay on Termination of Netting Agreements
and Qualified Financial Contracts

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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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NAIC MEMBER	RELATED STATE ACTIVITY
Alabama	NO CURRENT ACTIVITY
Alaska	NO CURRENT ACTIVITY
American Samoa	NO CURRENT ACTIVITY
Arizona	NO CURRENT ACTIVITY
Arkansas	NO CURRENT ACTIVITY
California	NO CURRENT ACTIVITY
Colorado	NO CURRENT ACTIVITY
Connecticut	NO CURRENT ACTIVITY
Delaware	NO CURRENT ACTIVITY
District of Columbia	NO CURRENT ACTIVITY
Florida	NO CURRENT ACTIVITY
Georgia	NO CURRENT ACTIVITY
Guam	NO CURRENT ACTIVITY

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NAIC MEMBER	RELATED STATE ACTIVITY
Hawaii	NO CURRENT ACTIVITY
Idaho	NO CURRENT ACTIVITY
Illinois	NO CURRENT ACTIVITY
Indiana	NO CURRENT ACTIVITY
Iowa	NO CURRENT ACTIVITY
Kansas	NO CURRENT ACTIVITY
Kentucky	NO CURRENT ACTIVITY
Louisiana	NO CURRENT ACTIVITY
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
Nebraska	NO CURRENT ACTIVITY
Nevada	NO CURRENT ACTIVITY
New Hampshire	NO CURRENT ACTIVITY
New Jersey	NO CURRENT ACTIVITY
New Mexico	NO CURRENT ACTIVITY

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NAIC MEMBER	RELATED STATE ACTIVITY
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	NO CURRENT ACTIVITY
Pennsylvania	NO CURRENT ACTIVITY
Puerto Rico	NO CURRENT ACTIVITY
Rhode Island	NO CURRENT ACTIVITY
South Carolina	NO CURRENT ACTIVITY
South Dakota	NO CURRENT ACTIVITY
Tennessee	NO CURRENT ACTIVITY
Texas	NO CURRENT ACTIVITY
Utah	NO CURRENT ACTIVITY
Vermont	NO CURRENT ACTIVITY
Virgin Islands	NO CURRENT ACTIVITY
Virginia	NO CURRENT ACTIVITY
Washington	NO CURRENT ACTIVITY
West Virginia	NO CURRENT ACTIVITY

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NAIC MEMBER	RELATED STATE ACTIVITY
Wisconsin	NO CURRENT ACTIVITY
Wyoming	NO CURRENT ACTIVITY