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:
   Surplus Lines (C) Task Force

2. NAIC staff support contact information:
   Andy Daleo, Senior Financial Analysis Manager (adaleo@naic.org)
   Dan Schelp, Chief Counsel, Regulatory Affairs (dschelp@naic.org)

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.

   Nonadmitted Insurance Model Act (#870) – See Attached
   On August 5, 2020, the Surplus Lines (C) Task Force discussed revisions to Model #870, and directed NAIC staff to form an informal Drafting Group composed of regulators from Louisiana, Oklahoma and Washington to produce a summary document that outlines the significant updates to modernize Model #870 and present a recommendation to the Task Force at a future national meeting. The attached Model #870 contains the Drafting Group’s recommendations with respect to modification of Model #870 to both bring it into compliance with the Nonadmitted and Reinsurance Reform Act (NRRA) as well as other amendments to modernize the model.

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

      The Nonadmitted Insurance Model Act (#870) has been adopted in 31 states, with other states adopting older versions of the NAIC model, statutes or regulations addressing the same subject matter, or other administrative guidance such as bulletins and notices. Every state, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands have surplus lines guidance in place.

      The NRRA was adopted July 21, 2011, and is contained within the Dodd-Frank Wall Street Reform and Consumer Protection Act (Act). The NRRA requirements and the mandate of the federal Act create uniformity for the collection of surplus lines tax payments through the implementation of the “Home State” requirement. All states comply with the NRRA’s home state tax approach.

      Model 870 was not modified because of the implementation of the NRRA. However, on October 11, 2011, a Nonadmitted Insurance Reform Sample Bulletin (copy attached) was adopted by Executive/Plenary and subsequently distributed to the state insurance departments. It is important to provide guidance for uniformity among the states in order to ensure compliance with the NRRA.
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: Due to the previous adoption of the Nonadmitted Insurance Reform Sample Bulletin by the NAIC, there is already uniformity of intent with respect to key areas addressed by the NRRA. The Surplus Lines (C) Task Force should be able to leverage that agreement to quickly and efficiently finish revisions to Model #870.

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: Surplus Lines is an important industry in every state and U.S. Territory, and it is important to provide uniform guidance to the NAIC members to ensure compliance with the federal NRRA.

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: Model #870 is not an accreditation requirement, but as previously stated it is important to provide uniform guidance to the states to ensure compliance with the NRRA.

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?

No

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

Yes, the proposed revisions to Model #870 are in direct response to the federal NRRA, which would preempt inconsistent state law.