

PROPERTY AND CASUALTY MODEL RATE AND POLICY FORM REGULATION GUIDELINE

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Section 1. Authority

This regulation is adopted and promulgated by [title of supervisory authority] pursuant to Section [insert applicable section] of the [insert state] insurance code.

Section 2. Definitions

As used in this regulation:

- A. "Exempt commercial policyholder" means an entity that has sufficient insurance buying expertise to negotiate with insurers in a largely unregulated environment and that meets any two (2) of the following qualifying criteria:
- (1) Net worth of over \$50 million;
 - (2) Net revenues or sales of over \$100 million;
 - (3) More than 500 employees per individual company or 1,000 per holding company aggregate;
 - (4) Procures its insurance through use of a risk manager, employed or retained;
 - (5) Aggregate premiums of over \$500,000;
 - (6) Is a not for profit, or public entity with an annual budget or assets of at least \$45 million, or
 - (7) Is a municipality with a population of over 50,000.

Drafting Note—ECP Definition: The definition of exempt commercial policyholder (ECP) included here was taken from the NAIC white paper: *The Regulatory Re-engineering of Commercial Lines Insurance*. It should be noted that in legislative sessions subsequent to the white paper, some states adopted ECP criteria similar to or the same as those in the white paper, while other states opted to enact much lower ECP criteria, in some cases with exemption applying only to filing requirements and not rate and policy form standards. It should also be noted that the criteria for ECPs may include variations. For example, lower ECP criteria might be applied in connection with rates than are applied in connection with forms.

- B. "Principally located in another state" means that the commercial policyholder maintains its headquarters in another state and that its officers and senior management are physically located at its headquarters.
- C. "Risk manager" means a person whose primary economic activity consists of regularly and continuously identifying and analyzing loss exposures, selecting the technique or combination of techniques to be used to handle each exposure to loss, implementing the chosen techniques and monitoring the decisions made.

Drafting Note—"Risk Manager" Definition: To the extent the definition of an ECP in Subsection A is modified, it may also be desirable to modify the definition of "risk manager" and to include language prohibiting the risk manager from having a conflicting economic interest in the policy being negotiated or procured.

Section 3. Waiver of Filing Requirements for Insurers Providing Coverages to Certain Exempt Commercial Policyholders

An insurer providing insurance coverage for an exempt commercial policyholder shall be exempt from all of the following requirements only for those policies issued to exempt commercial policyholders:

- A. The rate standards specified in Section [insert appropriate reference].
- B. The rate filing requirements specified in Section [insert appropriate reference].
- C. The policy form standards specified in Section [insert appropriate reference].
- D. The policy form filing requirements specified in Section [insert appropriate reference].
- E. All laws of this state containing statutorily mandated policy language, except for those applying to workers' compensation policies or auto insurance policies.

Section 4. Record Retention Requirements Applicable to Certain Exempt Commercial Policyholders

An insurer providing insurance coverage for an exempt commercial policyholder shall maintain adequate records to document that the exempt commercial policyholder met the criteria set forth in this regulation. The insurer shall maintain the records to ascertain that the policyholder was an exempt commercial policyholder for a period of not less than three (3) years from the expiration of the policy to which the exemption applies. The commissioner may make such examination as is deemed advisable to ascertain whether the insurer is claiming exemption for policies issued to policyholders that do not meet the criteria for consideration as an exempt commercial policyholder.

Section 5. Form Approval Requirements Applying to Multistate Commercial Risks

To facilitate the ability of insurers to transact the business of insurance with commercial risks that operate in more than one state, the commissioner finds that it is appropriate to modify the requirements for filing of certain policy forms and adherence to certain laws in this state. The following requirements are modified as indicated:

- A. The commissioner hereby waives the policy form filing requirements specified in Section [insert appropriate reference] for those policy forms issued to a commercial risk that operates in two (2) or more states, provided that the business of the commercial risk is principally located in another state.
- B. The insurer providing coverage for a commercial risk whose business is principally located in another state is not required to comply with [insert statutory reference to cancellation, nonrenewal and notice requirements and other laws that should not apply], provided that the insurer adheres to the cancellation and nonrenewal, and other laws of the state where the commercial risk is principally located.
- C. The insurer providing coverage for the commercial risk whose business is principally located in another state is required to comply with the laws of this state with regard to workers' compensation and the mandatory provisions contained in this state's automobile insurance laws. If the insurer includes a conformity to statute clause in its policies, that clause shall be interpreted to provide the workers' compensation and automobile insurance coverage required in this state.

Section 6. Severability Provision

If any section or portion of a section of this regulation or the application of this regulation to any person, business or circumstance is for any reason held to be invalid by a court, the remainder of the regulation and the application of the provision to other persons, businesses or circumstances shall not be affected.

Section 7. Effective Date

This regulation shall be effective on [insert date].

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

2010 Proc. 2nd Quarter, Vol. I 103, 124, 129-130, 360-388, 391-395 (adopted).

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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
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

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NAIC MEMBER	RELATED STATE 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
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

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

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