

UNIFORM DEPOSIT LAW

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Section 1. Definitions

- A. “Policyholders” as used in this Act include claimants under the insurer's policies, claimants having claims which arise under or by reason of the insurer's policies and obligees under its surety contracts.
- B. “United States” means the states of the United States, the government of Puerto Rico and the District of Columbia.
- C. “State” means any state of the United States, the government of Puerto Rico or the District of Columbia.
- D. “Insurer” for the purpose of this Act means any insurance company except a life insurance company, and shall include any reciprocal or interinsurance exchange.

Drafting Note: In the event the code of the state where this bill is introduced does not include a definition of “domestic” or “foreign” or “alien” insurer, the following definitions shall apply:

“Alien insurer” means an insurer incorporated or organized under the laws of any country other than the United States.

“Domestic insurer” means an insurer incorporated or organized under the laws of this state.

“Foreign insurer” means an insurer incorporated or organized under the laws of any state as herein defined, other than this state.

Section 2. Deposit Requirement

No foreign or alien insurer now or hereafter authorized to transact business in this state, except a life insurance company, shall do such business unless it shall deposit and continuously maintain with the commissioner of this state, or with an official of some other state of the United States, designated by law to accept such deposit, cash or securities having an admitted asset value of not less than [insert amount] dollars.

The deposit shall be held for the benefit and protection of all the policyholders of the insurer in the United States. If the deposit is made with an official of some other state, the commissioner shall be furnished with and shall accept as evidence of deposit the certificate of the state officer under his hand and seal certifying that the official holds the deposit for the benefit and protection of all the policyholders of the insurer in the United States.

Section 3. Reciprocity

In the event a domestic insurer or an alien insurer using this state as a state of entry into the United States shall be required, pursuant to the laws of any other state, country, province, district or territory to make a deposit differing in amount or character from the deposit required of domestic insurers by the laws of this state, the insurer may deposit with the commissioner cash or securities of the kind and amount sufficient to enable the insurer to meet the requirement, and the commissioner shall issue a certificate as evidence of the deposit for filing with an official of the other state, country, province, district or territory.

Section 4. Designation of Depositary

Upon request of the insurer, the commissioner may designate any solvent trust company or other solvent financial institution having trust powers and domiciled in this state, as the commissioner's depositary to receive and hold a deposit. The deposit so held shall be at the expense of the insurer. The State of [insert state] shall be responsible for the safekeeping and return of all funds and securities deposited pursuant to this Act with the commissioner or in any depositary so designated by the commissioner.

Section 5. Rights of Insurer

So long as the insurer remains solvent and complies with this Act it may:

- A. Demand, receive, sue for and recover the income from securities or cash deposited in accordance with this Act;
- B. Exchange and substitute for the deposited cash or securities or any part thereof, cash or eligible securities of equivalent or greater value; and
- C. Inspect, at reasonable times, any deposit made in accordance with this Act.

Section 6. Treatment of Deposit

Any deposit made in this state under this Act shall be released and returned:

- A. To the insurer upon extinguishment by reinsurance or otherwise of all liability of the insurer for the security of which the deposit is held; or
- B. To the insurer to the extent the deposit is in excess of the amount required; or
- C. Upon proper order of a court of competent jurisdiction to the receiver, conservator, rehabilitator or liquidator of the insurer, or to any other properly designated official or officials who succeed to the management and control of the insurer's assets.

Section 7. Release of Deposit

No release shall be made except upon application to and the written order of the commissioner. The commissioner shall have no personal liability for release of any deposit or part thereof made by him or her in good faith.

Section 8. Foreign or Alien Insurers

A deposit made in accordance with the requirements of this Act shall be in lieu of any deposit heretofore required of a foreign or alien insurer under any other law of this state, and any such law is hereby repealed. Deposits made by foreign or alien insurers in compliance with the requirements of other laws of this state shall be released to the insurer upon compliance with the requirements of Section 2 of this Act.

Drafting Note: This section is not intended to apply to or affect any existing provisions relating to trusteeing of assets of alien insurers. This section should be reviewed in the light of the trustee assets law of the state where this bill is being introduced to determine whether any amendment of this section is necessary to make certain that such trustee assets law will not be affected.

Section 9. Constitutionality

If any part of this Act shall be held unconstitutional, that unconstitutionality shall not affect nor impair the validity of the remaining parts of this Act.

Section 10. Repealing Clause

All acts and parts of acts in conflict with this Act are hereby repealed.

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

1953 Proc. I 176, 178-181 (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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KEY:

MODEL ADOPTION: States that have citations identified in this column adopted the most recent version of the NAIC model in a **substantially similar manner**. This requires states to adopt the model in its entirety but does allow for variations in style and format. States that have adopted portions of the current NAIC model will be included in this column with an explanatory note.

RELATED STATE ACTIVITY: Examples of Related State Activity include but are not limited to: older versions of the NAIC model, statutes or regulations addressing the same subject matter, or other administrative guidance such as bulletins and notices. States that have citations identified in this column **only** (and nothing listed in the Model Adoption column) have **not** adopted the most recent version of the NAIC model in a **substantially similar manner**.

NO CURRENT ACTIVITY: No state activity on the topic as of the date of the most recent update. This includes states that have repealed legislation as well as states that have never adopted legislation.

| NAIC MEMBER | MODEL ADOPTION | RELATED STATE ACTIVITY |
|----------------------|--|--|
| Alabama | | ALA. CODE §§ 27-6-1 to 27-6-16 (1971). |
| Alaska | | ALASKA STAT. §§ 21.24.010 to 21.24.130 (1966/2010). |
| American Samoa | NO CURRENT ACTIVITY | |
| Arizona | | ARIZ. REV. STAT. ANN. §§ 20-581 to 20-589 (1954/1983). |
| Arkansas | | ARK. CODE ANN. § 23-63-206 (1959/1983); §§ 23-63-901 to 23-63-912 (1959/1979); BULLETIN 2-2006 (2006). |
| California | | CAL. INS. CODE §§ 939 to 956 (1935/1985). |
| Colorado | COLO. REV. STAT. §§ 10-3-301 to 10-3-307 (1963). | |
| Connecticut | | CONN. GEN. STAT. § 38a-83 (1949/1984). |
| Delaware | | DEL. CODE ANN. tit. 18, §§ 1501 to 1514 (1953/1965). |
| District of Columbia | | D.C. CODE §§ 31-4315 to 31-4317 (1934/1973). |
| Florida | | FLA. STAT. §§ 624.411 to 624.412 (1959/1989); §§ 625.50 to 625.63 (1959/1982). |
| Georgia | | GA. CODE ANN. §§ 33-3-8 to 33-3-10 (1960/1982). |

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| NAIC MEMBER | MODEL ADOPTION | RELATED STATE ACTIVITY |
|--------------------|-----------------------|---|
| Guam | | GUAM GOV'T. CODE § 43202 (1981) (Alien insurers only). |
| Hawaii | | HAW. REV. STAT. §§ 431:7-301 to 431:7-311 (1988/1989). |
| Idaho | | IDAHO CODE ANN. § 41-316 (1961/2004); §§ 41-801 to 41-813 (1961/2004). |
| Illinois | | 215 ILL. COMP. STAT. 5/26 (1937/2013); 5/53 (1937/2013); 5/145 to 5/146 (1937/1959); 5/278 (1937/1959); 5/341 (1937). |
| Indiana | | IND. CODE §§ 27-1-20-1 to 27-1-20-11 (1981/2011). |
| Iowa | | IOWA CODE § 508.6 (1868/1985). |
| Kansas | | KAN. STAT. ANN. §§ 40-209 to 40-211 (1927/1984); §§ 40-230 to 40-230a (1931/1983). |
| Kentucky | | KY. REV. STAT. ANN. §§ 304.8-010 to 304.8-190 (1970/2004). |
| Louisiana | | LA. REV. STAT. ANN. §§ 22:1021 to 22:1029 (1958/1982). |
| Maine | | ME. REV. STAT. ANN. tit. 24-A, § 412 (1975/1985). |
| Maryland | | MD. CODE ANN., INS. § 5-701 to 5-708 (1939/1997). |
| Massachusetts | | MASS. GEN. LAWS. ch. 175, § 185 (1856/1943). |
| Michigan | | MICH. COMP. LAWS § 500.411 (1972/1982). |
| Minnesota | | MINN. STAT. § 60A.10 (1967/1986). |
| Mississippi | | MISS. CODE ANN. § 83-21-5 (1906/1942) (Foreign companies); § 83-7-21 (1942/1985) (Domestic stock companies). |
| Missouri | | MO. REV. STAT. §§ 375.460 to 375.500 (1939/1949). |

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|-------------------|---|---|
| Montana | | MONT. CODE ANN. §§ 33-2-601 to 33-2-612 (1959/2013). |
| Nebraska | | NEB. REV. STAT. § 44-319.2 (1955); 210 NEB. ADMIN. CODE § 6. |
| Nevada | | NEV. REV. STAT. §§ 682B.010 to 682B.120 (1971/1985). |
| New Hampshire | | N.H. REV. STAT. ANN § 402:73 (1911); § 411:8 (1913/1978). |
| New Jersey | | N.J. STAT. ANN. §§ 17:20-1 to 17:20-6 (1902/1990). |
| New Mexico | | N.M. STAT. ANN. §§ 59A-10-1 to 59A-10-19 (1985/2003). |
| New York | | N.Y. INS. LAW §§ 1314 to 1320 (1984). |
| North Carolina | | N.C. GEN. STAT. §§ 58-5-5 to 58-5-125 (1909/2003). |
| North Dakota | NO CURRENT ACTIVITY | |
| Northern Marianas | | 4 N. MAR. I. CODE § 7308 (1984) (alien insurers only). |
| Ohio | | OHIO REV. CODE ANN. § 3909.03 (1878/1953); § 3927.06 (1873/1904); § 3925.26 (1865/1985); §§ 3929.07 to 3929.08 (1923/1941). |
| Oklahoma | OKLA. STAT. tit. 36, §§ 1701 to 1709 (1957/1986). | |
| Oregon | | OR. REV. STAT. §§ 731.604 to 731.652 (1967/2004). |
| Pennsylvania | | 40 PA. STAT. ANN. §§ 3-201 to 3-204 (1921). |
| Puerto Rico | | P.R. LAWS ANN. tit. 26, §§ 801 to 809 (1966). |
| Rhode Island | | R.I. GEN. LAWS §§ 27-1-5 to 27-1-10 (1896/1938). |

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|--------------------|-----------------------|--|
| South Carolina | | S.C. CODE ANN. §§ 38-9-80 to 38-9-160 (1988); S.C. CODE ANN. REGS. 69-15 (1972/2002). |
| South Dakota | | S.D. CODIFIED LAWS §§ 58-6-33 to 58-6-37 (1966). |
| Tennessee | | TENN. CODE ANN. §§ 56-3-801 to 56-3-804 (1973); §§ 56-2-103 to 56-2-104, 56-2-112 (1895/2013). |
| Texas | | TEX. INS. CODE ANN. § 3.16 to 3.18 (1951/1961). |
| Utah | | UTAH CODE ANN. § 31A-4-105 (1985). |
| Vermont | | VT. STAT. ANN. tit. 8, § 3503 (1968). |
| Virgin Islands | | V.I. CODE ANN. tit. 22, §§ 701 to 712 (1968). |
| Virginia | | VA. CODE ANN. §§ 38.2-1045 to 38.2-1058 (1986). |
| Washington | | WASH. REV. CODE ANN. §§ 48.16.010 to 48.16.130 (1947/1985). |
| West Virginia | | W. VA. CODE R. §§ 33-9-1 to 33-9-9 (1957). |
| Wisconsin | | WIS. STAT. § 601.13 (1969/1980). |
| Wyoming | | WYO. STAT. ANN. §§ 26-8-101 to 26-8-114 (1971/1983). |