

**LIFE AND HEALTH INSURANCE GUARANTY
ASSOCIATION MODEL ACT**

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Section 19. Prohibited Advertisement of Insurance Guaranty Association Act in Insurance Sales; Notice to Policy Owners

- A. No person, including an insurer, agent or affiliate of an insurer shall make, publish, disseminate, circulate or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in any newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio station or television station, or in any other way, any advertisement, announcement or statement, written or oral, which uses the existence of the Insurance Guaranty Association of this state for the purpose of sales, solicitation or inducement to purchase any form of insurance covered by the [State] Life and Health Insurance Guaranty Association Act. However, this section shall not apply to the [State] Life and Health Insurance Guaranty Association or any other entity which does not sell or solicit insurance.
- B. Within 180 days of the effective date of this Act, the Association shall prepare a summary document describing the general purposes and current limitations of the Act and complying with Subsection C of this section. This document shall be submitted to the commissioner for approval. At the expiration of the sixtieth day after the date on which the commissioner approves the document, an insurer may not deliver a policy or contract to a policy or contract owner unless the summary document is delivered to the policy or contract owner at the time of delivery of the policy or contract. The document shall also be available upon request by a policy owner. The distribution, delivery or contents or interpretation of this document does

not guarantee that either the policy or the contract or the owner of the policy or contract is covered in the event of the impairment or insolvency of a member insurer. The description document shall be revised by the Association as amendments to the Act may require. Failure to receive this document does not give the policy owner, contract owner, certificate holder, or insured any greater rights than those stated in this Act.

- C. The document prepared under Subsection B shall contain a clear and conspicuous disclaimer on its face. The commissioner shall establish the form and content of the disclaimer. The disclaimer shall:
- (1) State the name and address of the Life and Health Insurance Guaranty Association and insurance department;
 - (2) Prominently warn the policy or contract owner that the Life and Health Insurance Guaranty Association may not cover the policy or, if coverage is available, it will be subject to substantial limitations and exclusions and conditioned on continued residence in this state;
 - (3) State the types of policies for which guaranty funds will provide coverage;
 - (4) State that the insurer and its agents are prohibited by law from using the existence of the Life and Health Insurance Guaranty Association for the purpose of sales, solicitation or inducement to purchase any form of insurance;
 - (5) State that the policy or contract owner should not rely on coverage under the Life and Health Insurance Guaranty Association when selecting an insurer
 - (6) Explain rights available and procedures for filing a complaint to allege a violation of any provisions of this Act; and
 - (7) Provide other information as directed by the commissioner including but not limited to, sources for information about the financial condition of insurers provided that the information is not proprietary and is subject to disclosure under that state's public records law.
- D. A member insurer shall retain evidence of compliance with Subsection B for so long as the policy or contract for which the notice is given remains in effect.

Comment: Subsection A continues the prohibition of using the existence of the Association in the inducement of sale of insurance. However, Subsection B requires notification to new policyholders concerning the general parameters of the association law and responsibility thereunder.

The following form for the disclaimer notice is suggested:

LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION DISCLAIMER

The [insert name of the Life and Health Insurance Guaranty Association] provides coverage of claims under some types of policies if the insurer becomes impaired or insolvent. **COVERAGE MAY NOT BE AVAILABLE FOR YOUR POLICY.** Even if coverage is provided, there are significant limits and exclusions. Coverage is always conditioned on residence in this state. Other conditions may also preclude coverage.

The Life and Health Insurance Guaranty Association will respond to any questions you may have which are not answered by this document. Your insurer and agent are prohibited by law from using the existence of the association or its coverage to sell you an insurance policy.

You should not rely on availability of coverage under the Life and Health Insurance Guaranty Association when selecting an insurer.

[Insert addresses of the Association and department.]

Insurers and agents should be required to deliver the document and disclaimer described under Subsections B and C when a customer is solicited if a “free look” period is not required by state law.

Computer programs or other evidence of established procedures for including the notice required under Subsection 19B in the policy or contract in the printing, assembly or issue process would be considered evidence of the compliance required under Subsection 19D.

Legislative History (all references are to the Proceedings of the NAIC).

1971 Proc. I 54, 58, 134, 159, 160-173 (adopted).
1976 Proc. I 2, 9, 270, 296-297, 298-312 (amended and reprinted).
1977 Proc. II 19, 21, 355, 363 (amended).
1978 Proc. I 13, 15, 211, 241 (corrected).
1986 Proc. I 9-10, 22, 149, 294-295, 306-322 (amended and reprinted).
1987 Proc. II 15, 22, 160, 320 (decertification of 4-account approach).
1988 Proc. I 9, 18-19, 157-159, 337-338, 339-354 (amended to create 2 accounts and reprinted).
1993 Proc. 2nd Quarter 12, 33, 227, 600, 602, 620-621 (amended).
1993 Proc. 3rd Quarter 7, 30, 333-334, 341-343, 350-352 (amended).
1995 Proc. 1st Quarter 7, 10, 461, 466 (amended).
1995 Proc. 3rd Quarter 4, 18, 582, 585-586 (amended).
1996 Proc. 4th Quarter 11, 45-46, 938, 956, 959-981 (amended and reprinted).
1997 Proc. 4th Quarter 25, 27-28, 645, 646-647 (amended).
1998 Proc. 1st Quarter 15, 17, 598, 602, 603-616 (amended to add appendix).
1999 Proc. 1st Quarter 8, 9, 443, 445-446 (amended).
1999 Proc. 2nd Quarter 10, 11, 435, 436-438 (amended).