

MODEL LAW ON EXAMINATIONS

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Prefatory Drafting Comment

This model act reflects a conceptual change with respect to the frequency and scope of on-site financial examinations of insurers. The Act authorizes the commissioner to conduct examinations whenever it is deemed necessary and the commissioner is given the flexibility to decide the scope of the examination. Since criteria for determining when a company should be examined and the scope of that examination and procedures to be employed is a complex matter, the Act requires the commissioner to observe the direction set forth in the with respect to these matters.

The objective of the model act is to direct department resources to companies having or likely to have financial difficulty; however, all companies are required to be examined once every five years, although the scope and extent of that exam will be based on the particular attributes of the company to be examined.

The purpose of this Act is to provide an effective and efficient system for examining the activities, operations, financial condition and affairs of all persons transacting the business of insurance in this state and all persons otherwise subject to the jurisdiction of the commissioner. The provisions of the Act are intended to enable the commissioner to adopt a flexible system of examinations that directs resources as may be deemed appropriate and necessary for the administration of the insurance and insurance related laws of this state.

Section 2. Definitions

The following terms as used in this Act shall have the respective meanings hereinafter set forth:

- A. "Commissioner" means the commissioner of insurance of this state.

Drafting Note: The title of the chief insurance regulatory official should be used here and throughout the law.

- B. "Company" means a person engaging in or proposing or attempting to engage in any transaction or kind of insurance or surety business and any person or group of persons who may otherwise be subject to the administrative, regulatory or taxing authority of the commissioner.
- C. "Department" means the department of insurance of this state.
- D. "Examiner" means an individual or firm having been authorized by the commissioner to conduct an examination under this Act.
- E. "Insurer" means [refer to appropriate definition in state insurance code].
- F. "Person" means an individual, aggregation of individuals, trust, association, partnership or corporation, or any affiliate thereof.

Section 3. Authority, Scope and Scheduling of Examinations

- A. The commissioner or any of the commissioner's examiners may conduct an examination under this Act

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- (3) An investment owner in shares of regulated diversified investment companies; or
 - (4) A settlor or beneficiary of a “blind trust” into which any otherwise impermissible holdings have been placed.
- B. Notwithstanding the requirements of this section, the commissioner may retain from time to time, on an individual basis, qualified actuaries, certified public accountants, or other similar individuals who are independently practicing their professions, even though these persons may from time to time be similarly employed or retained by persons subject to examination under this Act.

Section 7. Cost of Examinations

Drafting Comment: The NAIC Model State Insurance Department Funding Bill or such funding mechanism as may be currently authorized by law should be incorporated here by reference. Any funding mechanism should assure that the manner in which examinations are