

February 7, 2020

James Kennedy
Chairman, Receivership and Insolvency Task Force
National Association of Insurance Commissioners
1100 Walnut Street
Kansas City, MO 64106-2197

Subject: Response to Request for Comment on Key Provisions for Insolvency Laws

Dear James:

Thank you for inviting comments on Key Provisions for Insolvency Laws. In response NCIGF offers the following:

The NCIGF is undertaking a multi-year effort to implement various revisions to property and casualty guaranty fund acts. This effort will focus on the following areas:

- 1) Modernization as needed of state laws. A small minority of states need updates to provisions in their laws such as the base for calculation of member assessments, claim bar dates and other matters. We plan to identify areas where an update may be needed and offer suggestions to fund managers and their boards in this regard.
- 2) Statutory changes to accommodate transactions under Insurance Business Transfer and corporate division statutes. We have advised the Restructuring Mechanisms Working Group that we have concerns that under current state guaranty fund laws certain claimants involved in these transactions may not be covered in the event of the insolvency of a new entity. NCIGF recently adopted a policy stating that coverage should remain in place for those claimants who would have had guaranty fund coverage before the transaction. Conversely, the policy states that guaranty fund coverage should not be created for such claims that would not have been covered claims before the transaction. We are in the process of developing statutory language to achieve this result and will suggest to local managers that the changes be implemented as needed and assist them in tailoring our template language to their local statutes.
- 3) Specific statutory changes if needed to permit guaranty funds to assess for administrative costs that are not tied to the volume of insolvency activity. As you are aware the guaranty funds are often called upon to “ramp up” very quickly to address new liquidations. To achieve this “always ready” status it is important that a minimal cadre of experienced staff be available to handle short-notice influx of claims and that physical guaranty fund facilities be maintained. Some

- states may need specific statutory changes to address this need and we will be assisting our members in this regard.
- 4) Statutory changes as needed to prevent “orphan claims” scenarios. In a minority of states non-standard language, usually related to residency requirements, is on the books. This could create a claim denial of a claim the system is intended to cover. We plan to work with those states, again a minority, in which such problem could arise.

With regard to liquidation acts, as you know, the NCIGF for some time has promoted specific liquidation act language to address large deductibles. The NAIC’s IRMA model has such a provision and recently the large deductible working group has exposed an alternative approach as a “guideline” for states to consider. This alternative approach calls for the asset to be remitted in full to the guaranty funds and not be treated as a general asset of the estate. The NCIGF supports the alternative approach proposed by the Large Deductible Working Group with some technical tweaks that will be offered in our comments. The Large Deductible Working Group has concluded, and we agree, that large deductible business, in an insurance liquidation, is best managed when there is a statute in place.

Thank you for considering our comments. We would be happy to answer any questions the RITF may have.

Very truly yours,



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