

## HOME SERVICE DISCLOSURE MODEL ACT

### Table of Contents

Section 1.	Purpose
Section 2.	Definitions
Section 3.	General Disclosure Requirements
Section 4.	Disclosure of Payment Methods
Section 5.	Evidence of Payment
Section 6.	Proof of Policy Delivery
Section 7.	Company Duties
Section 8.	Minimum Disclosure Language Simplification Standards
Section 9.	Separability
Section 10.	Effective Date
Appendix A.	Disclosure Form

### Section 1. Purpose

The purpose of this model Act is to establish rules that ensure meaningful information is provided to the purchasers of insurance policies distributed through the home service distribution system.

### Section 2. Definitions

As used in this Act:

- A. “Home service distribution system” means a system in which insurance products are marketed, sold or serviced by agents in person in the home or business of the insured, owner or premium payor in assigned territories and that may be identified as “debits,” and
  - (1) The policies are issued on a monthly or more frequent premium payment basis; and
  - (2) Agents are charged with the responsibilities of servicing the debit, which may include the collection of premium payments in the home or designated location on a monthly or more frequent basis, along with other services normally rendered.
- B. “Small face amount life insurance policy” means an insurance policy with a face amount of \$15,000 or less.

**Drafting Note:** The face amount specified in Subsection B should not prohibit states from using a different monetary face amount. Each state should review and consider using a face amount that is consistent with the average face amount for policies distributed through the home service distribution system in the state.

### Section 3. General Disclosure Requirements

- A. In accordance with the disclosure simplification standards set forth in Section 8, at the time an insurance policy is issued through the home service distribution system, the insurer shall disclose at the time the policy is issued:
  - (1) Whether the policyholder is allowed to change the method of premium payment and any conditions for that change;
  - (2) Whether or not at a subsequent date a policyholder may combine multiple policies from the same insurance company, its affiliates and subsidiaries into one policy in order to provide like or enhanced coverage at a comparable or reduced premium to eliminate duplicate administrative costs associated with each policy;
    - (a) If the option is available, whether a policyholder will be subject to underwriting when combining multiple policies into one policy; and

- (b) If the option is available, whether a policyholder will be subject to a new contestable period, waiting periods, etc., when combining multiple policies into one policy.
- B. In accordance with the disclosure simplification standards set forth in Section 8, an insurer issuing a small face amount life policy through the home service distribution system shall provide the disclosure included in Appendix A if at any point in time over the term of the policy the cumulative premiums paid may exceed the face amount of the policy at that point in time. The required disclosure shall be provided to the policy owner or certificate holder no later than at the time the policy or certificate is delivered. The disclosure shall not be attached to the policy, but may be delivered with the policy.
  - (1) If, for a particular policy form, the cumulative premiums may exceed the face for some demographic or benefit combination but not for all combinations, the insurer may choose to either:
    - (a) Provide the disclosure only in those circumstances where the premiums may exceed the face amount; or
    - (b) Provide the disclosure for all demographic and benefit combinations.
  - (2) Cumulative premiums shall include premiums paid for riders. However, the face amount shall not include the benefit attributable to the riders.
  - (3) If an illustration has been provided that meets the requirements of [insert reference to state equivalent to the Life Insurance Illustrations Model Regulation], the disclosure requirements of Subsection B are deemed to have been met.
- C. In accordance with the policy simplification standards set forth in Section 8, at the time a fire insurance policy is issued through the home service distribution system, the insurer shall disclose:
  - (1) Whether the amount of insurance coverage is based on the market value of the property insured. If not, the fire insurance policy shall disclose that it may not cover the full amount of the loss;
  - (2) Whether the policy will pay for a loss that is not caused by fire; and
  - (3) Whether the policy provides any liability coverage.

#### **Section 4. Disclosure of Payment Methods**

In accordance with the disclosure simplification standards set forth in Section 8, at the time an insurance policy is issued through the home service distribution system, the insurer shall disclose:

- A. What premium savings may be realized by a different method or less frequent mode of premium payment;
- B. That premiums are still due and payable by the person responsible for premium payments even when an agent does not collect the premiums;
- C. The mailing address for payment of premiums to the company; and
- D. When premium payments are made in cash or in person, that the consumer is entitled to receive a receipt for premium payments.

#### **Section 5. Evidence of Payment**

For every premium collected on a policy of property, casualty, life or disability insurance marketed, sold or serviced through the home service distribution system in this state, the agent, solicitor or broker, or any employee acting on the agent, solicitor or broker's behalf, collecting or receiving the premium in person shall:

- A. Maintain and furnish to the policyholder a receipt indicating payment of premiums, which shall provide the payer with clearly understandable, written evidence of payment at the time the premium is collected. At a minimum it shall clearly show:

- (1) The name of the payer;
  - (2) The name of insured under each policy covered by the premium;
  - (3) Amount paid;
  - (4) The date paid;
  - (5) The date paid-to-status of the policy;
  - (6) The policy number;
  - (7) The face amount and type of policy for which the payment will be credited;
  - (8) The signature of the agent;
  - (9) The agent's printed name and unique identification number; and
  - (10) The name, complete address and phone number of the insurer; and
- B. Remit to the insurer's home office, applicable district office, or deposit in a fiduciary account the premium collected on behalf of the policyholder within ten (10) days of receipt from the premium payer or policy owner. In the event that the insurer utilizes an accounting system based on a monthly list bill, all premiums collected shall be credited from the date of collection. The premium shall be fully applied to that particular account.

**Section 6. Proof of Policy Delivery**

If an insurance policy marketed, sold or serviced through the home service distribution system is delivered by an agent, solicitor or broker, or an employee acting on the agent, solicitor or broker's behalf, a receipt shall be signed by the purchaser and the agent acknowledging delivery to the purchaser of the policy or contract and the disclosures required by this Act. The receipt shall contain the name of the purchaser, the policy or contract number, the amount of the initial premium payment and the date the delivery was completed. A policy shall be deemed to have been received six (6) months after the date of issuance if the insured has paid premiums pursuant to the contract. All delivery receipts required by this section shall be retained by the company for not less than three (3) years following delivery and shall be available for inspection upon request of the commissioner.

**Section 7. Company Duties**

Each insurer engaged in the home service distribution system in this state shall make available to the insurance commissioner for review:

- A. Established written procedures to audit agencies engaged in the home service system of distribution of policies in this state; and
- B. Proof of audits conducted periodically that reasonably ensure that the premium payer's premium recording item or records accurately reflect the premium due date and premium paid-to-status of the policy or policies purchased.

**Section 8. Minimum Disclosure Language Simplification Standards**

- A. All policy forms shall be approved by the insurance commissioner before they are delivered or issued for delivery in this state.
- B. All disclosure forms shall comply with state readability standards. It is presumed the disclosure form of Appendix A complies with the state readability standards.

**Drafting Note:** If a state does not have readability standards, a state may want to consider using the Flesch “reading ease” test (Rudolph Flesch, the *Art of Readable Writing* 1949, as revised 1974). While the Flesch reading ease test is the basic test set forth in this drafting note, it is recognized that other tests are also in wide use and should be permitted to be used. Two sources in particular can provide guidance in this area. The first is the National Literacy Secretariat of Canada and the second is Plain Language Action Network (PLAN). Both of these sources can be accessed through a U.S. government website: <http://www.plainlanguage.gov>

The National Literacy Secretariat provides direction on modern plain language ideas for the presentation of content that include, for instance, the following:

- Use simple, familiar, everyday words;
- Avoid unnecessary words (e.g., use “about” rather than “with regard to”);
- Avoid using jargon;
- Avoid or explain technical words;
- Don’t change verbs into nouns;
- Avoid chains of nouns;
- Be consistent in your choice of words;
- Use acronyms carefully;
- Write in clear and simple sentences;
- Don’t overload sentences;
- Use active sentences;
- Keep sentences short;
- Keep sentences simple;
- Avoid ambiguity in your sentences;
- Avoid double negatives;
- Divide material into short sections; and
- Limit each paragraph to one topic.

The Plain Language Action Network was formed following the issuance of a June 1, 1998 “Presidential Memorandum on Plain Language.” It is intended to provide assistance to writers in government about communications with the public. In addition to content advice, the PLAN website contains specific guidelines regarding layout and typography that comply with commonly understood plain language principles. For instance, PLAN provides guidelines for the margin, spacing, and heading parameters and for the use of upper and lower case, fonts, shading, and bullets.

C. A document will comply with the Flesch reading ease test if:

- (1) The text achieves a minimum score of 40 on the Flesch reading ease test or an equivalent score on any other comparable test as provided in Subsection D of this section;
- (2) It is printed in not less than ten-point type, one-point leaded; and

**Drafting Note:** This paragraph is not intended to include minor instructions concerning the preparation of a disclosure.

- (3) The style, arrangement and overall appearance of the disclosure form give no undue prominence to any portion of the text of the disclosure form.

D. For the purposes of this Act, a Flesch reading ease test score shall be measured by the following method:

- (1) For disclosure forms containing 10,000 words or less of text, the entire form shall be analyzed. For disclosure forms containing more than 10,000 words, the readability of two 200 word samples per page may be analyzed instead of the entire form. The samples shall be separated by at least 20 printed lines.
- (2) The number of words and sentences in the text shall be counted and the total number of words divided by the total number of sentences. The figure obtained shall be multiplied by a factor of 1.015.
- (3) The total number of syllables shall be counted and divided by the total number of words. The figure obtained shall be multiplied by a factor of 84.6.
- (4) The sum of the figures computed under (2) and (3) subtracted from 206.835 equals the Flesch reading ease score for the policy form.
- (5) For purposes of Paragraph (2), (3), and (4) of this subsection, the following procedures shall be used:
  - (a) A contraction, hyphenated word, or numbers and letters, when separated by spaces, shall be counted as one word;

- (b) A unit of words ending with a period, semicolon or colon, but excluding headings and captions, shall be counted as a sentence; and
  - (c) A syllable means a unit of spoken language consisting of one or more letters of a word as divided by an accepted dictionary. Where the dictionary shows two or more equally acceptable pronunciations of a word, the pronunciation containing fewer syllables may be used.
- E. Filings subject to this Act shall be accompanied by a certificate signed by an officer of the insurer stating that it meets the minimum reading ease score on the test used or stating that the score is lower than the minimum required. To confirm the accuracy of any certification, the commissioner may require the submission of further information to verify the certification in question. The certificate does not need to be signed for the disclosure form of Appendix A or accompany the disclosure form of Appendix A. It is presumed the disclosure form of Appendix A complies with the state readability standards.

**Section 9. Separability**

If any provision of this Act or its application to any person or circumstance is for any reason held to be invalid by any court of law, the remainder of the Act and its application to other persons or circumstances shall not be affected.

**Section 10. Effective Date**

This Act shall become effective [insert appropriate date] and shall apply to insurance policies distributed through the home service distribution system on or after the effective date.

## Appendix A

### Important Information About Your Policy

The premiums you'll pay for your policy may be more than the amount of your coverage (the face amount). You can find both the face amount and the annual premium in your policy. Look for the page labeled [use the label the company uses for that information, such as "Statement of Policy Cost and Benefit Information"].

- Usually, you can figure out how many years it will take until the premiums paid will be greater than the face amount. For an estimate, divide the face amount by the annual premium. Several factors may affect how many years this might take for *your* policy. These include not paying premiums when due, taking out a policy loan, surrendering your policy for cash, policy riders, payment of dividends, if any, and changes in the face amount.
- Many factors will affect how much your life insurance costs. Some are your age and health, the face amount of the policy, and the cost of a policy rider. You may be able to pay less for your insurance if you answer health questions. You may also pay less if you pay your premiums less often.

Ask your insurance agent or your insurance company if you have any questions about your premiums, your coverage, or anything else about your policy.

### If You Change Your Mind ...

- You can get a full refund of premiums you've paid if you return your policy and cancel your coverage. You *must* do this within the number of days stated on your policy's front page. To return the policy for a full refund, send it back to the agent or the company.
- If you stop paying premiums or cancel your policy *after* the time that a full refund is available, you have specific rights. Ask your insurance agent or your insurance company about your rights.

### Contact Information

If you have questions about your insurance policy, ask your agent or your company. If your agent isn't available, contact your insurance company at [provide telephone number (including toll-free number if available), address and website (if available)].

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

*2001 Proc. 4<sup>th</sup> Quarter 162-164, 181-185, 186 (model adopted later printed here).*

*2002 Proc. 1<sup>st</sup> Quarter 13, 14, 394 (adopted).*