

**MODEL RUN-OFF ACT<sup>1</sup>**

**Section 1 Definitions**

“*Commissioner*” means the chief insurance regulator in this state.

“*Run-Off Insurer*” means a property and casualty insurer domiciled in this state that has:

(a) Total Adjusted Capital under Risk Based Capital requirements in an amount less than the Authorized Control Level RBC as defined in section \_\_\_\_\_ as of the date specified in [applicable law] for filing of the annual financial statement and has indicated that it will cease writing new insurance policies, either as part of its corrective action plan or pursuant to being placed under regulatory control; or

(b) Total Adjusted Capital under Risk Based Capital requirements in an amount less than the Mandatory Control Level RBC as defined in section \_\_\_\_\_ as of the date specified in [applicable law] for the filing of the annual financial statement and that has not been placed into liquidation under section \_\_\_\_\_.

“*Plan*” means a plan for running-off liabilities of a Run-Off Insurer.

“*State Guaranty Fund*” means any mechanism mandated by [insert citation to guaranty association enabling acts] or a similar mechanism in another state, for the payment of claims of an insolvent insurer.

**Section 2 Run-Off Plan**

(a) Within [90 ] days of the occurrence of either 1(a) or 1(b) a Run-Off Insurer shall file with the Commissioner for approval a Plan to run-off its liabilities subject to the conditions contained herein. Such Plan shall at a minimum, include the following:

- (i) a current financial statement for the Run-Off Insurer and the most recent audited financial statement, if available, of the Run-Off Insurer;
- (ii) analysis of the Run-Off Insurer’s reinsurance and any collectability issues related to the Run-Off Insurer’s ceded reinsurance;
- (iii) analysis of the Run-Off Insurer’s assets and disclosure of any concerns over the value of those assets compared to book value;
- (iv) most recently completed actuarial reserve review;

---

<sup>1</sup> It is recommended this provision be added to a state’s article dealing with rehabilitations and liquidations.

- (v) projections and supporting detail of cost savings that can be achieved through the Plan through elimination of facilities, functions, personnel and services no longer needed as part of the Plan;
- (vi) pro forma financial statements for five or more years following the date the Plan was filed, that include a projection of claim payments and demonstrate sufficient liquidity to meet claim obligations and other expenses during that period while maintaining required surplus levels;
- (vii) description of permitted statutory accounting practices(s) needed to maintain required surplus levels;
- (viii) disclosure of any litigation or other disputes that if decided adversely to the Run-Off Insurer would threaten the viability of the Plan;
- (ix) biographies of those persons retained to oversee the Plan and copies of any contracts for outside services;
- (x) a statement that the run off insurer will handle claims in accordance with [laws applicable to insurer claim payment practices;] and
- (xi) such other information the Commissioner may require.

(b) If the Run-Off Insurer fails to file a Plan within the time specified in 2(a), the Commissioner shall proceed promptly with the filing of a petition under (*cite rehabilitation and liquidation act*).

### **Section 3 Plan Approval**

Within 45 days after receipt of the information required to be provided in Section 2, the Commissioner may identify and request additional information and establish a timeframe for its receipt. Within 21 days of the receipt of all requested information, the Commissioner shall determine whether to approve the Plan. The Commissioner may approve the Plan if he or she determines that the Plan has a reasonable chance of satisfying all policy obligations of the Run-Off Insurer and it is in the best interests of policyholders, other policy claimants and the public. Approval of the Plan shall be accomplished by Order of the Commissioner and shall include such terms and restrictions as the Commissioner may deem appropriate. The Run-Off Insurer shall be relieved of complying with risk based capital requirements under Section \_\_\_\_\_ so long as it is in compliance with an approved Plan. The Run-Off Insurer shall be responsible for the costs of any outside consultants utilized by the commissioner in reviewing or ensuring compliance with the Plan.

#### **Section 4 Plan Monitoring**

Upon approval of a Plan under Section 3, the Run-Off Insurer shall be required to do the following:

- (i) On March 1 of each year or more frequently if required by the Commissioner file a report with the Commissioner describing the progress of the Plan, any changed circumstances affecting the Plan's viability, and any requests for Plan modifications;
- (ii) For each year subsequent to the approval of the Plan, file annual and quarterly financial statements, including annual audited financial statements, with the Commissioner in accordance with the requirements of the state of domicile and using the NAIC approved format for such statements;
- (iii) Undergo an annual claims review performed by a person designated by the Commissioner and provide a report to the Commissioner which shall include analysis of case reserves and a review of claims handling practices for compliance with statutory and regulatory claims handling requirements;
- (iv) Obtain an independent actuarial review of outstanding reserves bi-annually or more frequently as requested by the Commissioner;
- (v) Subject to an appropriate confidentiality agreement, meet at least annually with representatives of the State Guaranty Funds that potentially would be triggered in the event the Run-Off Insurer is placed into liquidation. The Run-Off Insurer shall provide information to the affected State Guaranty Funds on the progress of the Plan including but not limited to claim count and reserves by line and by state, current financials, results of claim and actuarial reviews, any litigation filed against the Run-Off Insurer, reinsurance collections and disputes and any Plan modification, which information shall be used solely to prepare for an orderly transition to the State Guaranty Funds in the event of liquidation ; and
- (vi) Submit modifications of the Plan as required by the Commissioner.

#### **Section 5 Plan Termination**

- (a) The Commissioner shall undertake an annual evaluation of the performance of each approved Plan to determine whether the Plan remains reasonably calculated to satisfy all policy obligations of the run-off insurer and is in the best interests of policyholders, claimants and the public. If the Commissioner determines that the Plan no longer meets these guidelines, the Commissioner shall proceed with the filing of a petition under \_\_\_\_\_ (*cite rehabilitation and liquidation act*).
- (b) Upon completion of the Plan, the Run Off Insurer shall file a final report with the Commissioner. If the Commissioner determines that policy claimant interests have been satisfactorily addressed and the Plan goals have been achieved he or she shall terminate the Plan.