



**Proposed Model Law:
Insurance Innovation Regulatory Variance or Waiver Act**

AN ACT to amend the insurance law to promote innovative insurance technologies, products and services by permitting the insurance commissioner, subject to legislative reporting, to grant targeted variances, waivers or no action letters

Section 1. The Legislature finds that:

(1) Technology and consumer expectations are rapidly transforming the regulated insurance industry. Substantial investments are being made in innovative new insurance products, services and technologies, holding great promise with respect to improving the mitigation of risks, efficiency and cost of insurance transactions, speed of claim payments and overall customer understanding of and satisfaction with this essential form of financial protection.

(2) Some innovations will disrupt old insurance business models and introduce new and more efficient ways of doing business. By actively engaging with and encouraging the piloting and testing of new and innovative ways of delivering insurance to businesses and consumers, the State can expand insurance markets, particularly by making insurance transactions more accessible for first-time insurance buyers.

(3) Strict application of uniformly applicable requirements can lead to unintended results when new and innovative technologies, products and services are first tested in a closely regulated market place like insurance. It may be appropriate in such cases to adopt a procedure for insurance regulators to promote expanded competition and innovation for the benefit of businesses and consumers by providing targeted relief to persons or entities subject to regulation.

(4) Granting targeted or limited variances, waivers or no action letters with respect to the enforcement or application of certain requirements of the insurance law or regulations should be permissible to the extent an applicant for such relief is able to demonstrate that the public policy purpose of the underlying statute or regulation will be or has been achieved by alternative means and the application of the law or rule would prohibit or discourage the introduction of new, innovative or more efficient insurance products, services or technologies to the State's consumers.

Section 2. Chapter XX of Title YY is amended by adding the following new section:

(1) Subject to the limitations specified in subsection (2), the Commissioner is authorized to grant variances, waivers or no action letters with respect to the specific requirements of insurance laws or regulations when the person or entity subject to the law or regulation demonstrates that the public policy goals of the law or regulation will be or has been achieved by other means and the application of the requirement would either prohibit or discourage the introduction of new, innovative or more efficient insurance products, services or technologies. Such variances, waivers and no action letters shall be of a duration deemed appropriate by the Commissioner, and the Commissioner is authorized to grant variances, waivers or no action letters of differing or limited durations and scope.

(2) Pursuant to the authority granted by this section, the Commissioner may not grant a variance, waiver or no action letter with respect to any laws or regulations governing:

- a. Assets, deposits, investments, capital, surplus or other solvency requirements applicable to insurance companies;
- b. Licensing and certificate of authority requirements with respect to any person or entity required to hold a license under this Chapter;
- c. Required participation in any assigned risk plan, residual market or guaranty fund;
- d. Any law or regulation required for the insurance department to maintain its accreditation by the National Association of Insurance Commissioners, unless said law or regulation permits variances, waivers or no action letters;
- e. Application of any taxes or fees;
- f. Any other law or regulation that the Commissioner deems ineligible for a variance, waiver or no action letter.

(3) When a variance, waiver or no action letter is first applied for, and when such application is granted pursuant to this section, the Commissioner shall provide public notice of the existence of the application or grant of a variance, waiver or no action letter, by providing the following information:

- a. specific statute or regulation to which the variance, waiver or no action letter applies;
- b. name of the person(s) or entity(ies) who applied for and received the variance, waiver or no action letter;
- c. duration of the variance, waiver or no action letter.

The requirements of this subsection may be satisfied by publication of a notice on the department's website.

(4) The Commissioner, by regulation, order or bulletin, shall adopt uniform rules of procedure for the submission, granting or denying of petitions for variances, waivers and no action letters pursuant to this section. The uniform rules shall include procedures for the grant or denial of a

variance, waiver or no action letter within sixty days of receiving a petition, as well as the conditions under which the Commissioner may revoke a previously granted variance, waiver or no action letter. Rules adopted pursuant to this section may permit the Commissioner to attach reasonable terms, conditions or limitations on the conduct or activity permitted pursuant to the grant of a variance, waiver or no action letter. Such terms, conditions or limitations may include, but are not limited to, requirements that the entity receiving a variance, waiver or no action letter take reasonable steps to protect consumers, mitigate risks or submit data or analysis to the Commissioner regarding the market impact of the variance, waiver or no action letter.

(5) Other than the information specified in subsection (3), a petition for a variance, waiver or no action letter, the information contained therein, and all information provided to the Commissioner by the applicant for or recipient of a variance, waiver or no action letter, including communications between the insurance department and the recipient required pursuant to the terms of the variance, waiver or no-action letter, shall at all times be considered a trade secret and confidential information and shall not be subject to public disclosure.

(6) The ability to grant variances, waivers and no action letters under this section shall not be interpreted to limit or otherwise affect the authority of the Commissioner to exercise discretion to waive or enforce requirements as permitted under any other section of Title YY or any regulation adopted pursuant to that Title.

(7) The Commissioner shall annually submit a report to the Legislature providing the following information:

- a. Total number of petitions for variances, waivers and no action letters that have been granted or denied by the Commissioner;
- b. For each variance, waiver or no action letter granted by the Commissioner, the information specified under subsection (3) of this section;
- c. With respect to each statute or regulation to which a variance, waiver or no action letter applies, the Commissioner's recommendation as to whether such statute or regulation should be continued, eliminated or amended prospectively in order to both promote innovation and establish a uniform regulatory system for all regulated entities;
- d. List of any variances, waivers or no action letters that have lapsed or been revoked and, if revoked, a description of other regulatory or disciplinary actions, if any, that resulted in, accompanied or resulted from such revocation.