

Insurance Business Transfer/Corporate Division: Potential Life & Health GA Implications¹

NCOIL Joint State – Federal Relations &
International Insurance Issues Committee

Kevin Griffith, Faegre Baker Daniels
NOLHGA Legal Counsel

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¹ While NOLHGA neither endorses nor opposes any specific Insurance Business Transfer or Corporate Division proposal, we do wish stakeholders to be aware of potential guaranty system safety net implications for insurance consumers and other stakeholders.

Conditions for Coverage by a State's L&H GA²

- Person Must be Eligible for Coverage
 - Primarily Resident State Policyowners
- Product Must Be Covered Policy
- Insolvent Company Must Be a “Member Insurer” of GA
 - Company Must Be/Have Been Licensed in GA's State
 - Public Policy Rationale for Licensing Requirement
- If Not Member Insurer: Policyholders are “Orphans”

² The conditions for GA coverage must be met at the time the GA is triggered.

Orphan Coverage

- All L&H GA Acts Have Orphan Coverage Provision
- Domiciliary State GA Covers “Orphans” (e.g., Policyholders in Non-Licensed States)
- Avoids Coverage Gaps Due to Exceptional Circumstances
 - E.g., Policyholder Moves to Non-Licensed State
- The Orphan Exception was Never Intended to Swallow the Rule that Individuals are Covered by the GA in their State of Residence.

Business Transfer/Corporate Division Hypothetical

- “Company X” Succeeds to Business in 50 States
 - Licensed Only in State of Domicile
- L&H GA Coverage
 - Company X Not “Member Insurer” in 49 States
 - GAs in 49 States Lack Statutory Authority to Provide Coverage
 - Domiciliary State GA Provides Nationwide Coverage for Orphans
- Potential Issues
 - Potential Capacity Strain for Domiciliary State GA
 - Smaller GA Assessment Base in the 49 Other States
 - Fairness Issue for Domiciliary State Member Insurers
 - Lack of Meaningful Regulatory Authority for Commissioners in the 49 States where Company X is not Licensed.