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National Council of Insurance Legislators (NCOIL)

Rental Home Marketplace Guarantees Model Act

**Sponsored by Rep. Brian Lampton (OH)*

**Adopted by the NCOIL Property & Casualty Insurance Committee on April 26, 2025, and the NCOIL Executive Committee on April 27, 2025.*

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Section 1. Title, Scope and Purposes

A. This Act shall be known and cited as the Rental Home Marketplace Guarantees Act.

B. The purposes of this Act are to:

- (1) Create a legal framework within which a rental home marketplace or its affiliates may offer a rental home marketplace guarantee in this state; and
- (2) Protect consumers by promoting transparency, fairness and accountability related to rental home marketplace guarantees.

Drafting Note: States wishing to allow providers to obtain insurance policies providing group or blanket liability insurance coverage, business interruption or similar coverages to platform users may add language to expressly allow such coverage within the scope of this Act.

Section 2. Definitions

As used in this Act:

A. “Commissioner” means the commissioner of insurance of this state.

Drafting Note: Insert the title of the chief insurance regulatory official wherever the term “commissioner” appears. If the state desires that rental home marketplace guarantees should be regulated by another regulator, insert language referencing the appropriate regulator.

B. “Rental home marketplace” means a person that meets each of the following criteria:

(1) Provides an online application, software, website, system or other medium through which a property is advertised or is offered to the public as available in this state and that connects platform users to enable them to share property.

(2) Provides, directly or indirectly, or maintains an online platform by performing any of the following:

(a) Transmitting or otherwise communicating the offer or acceptance of a transaction between two platform users.

(b) Owning or operating the electronic infrastructure or technology that brings two or more platform users together.

(3) If engaged in the offering of rental home marketplace guarantees, does so only in a manner that is ancillary to the conduct of its primary legitimate business or activity.

(4) Is not a local or state governmental entity.

C. “Rental home marketplace guarantee” means a contract or agreement issued in connection with a rental home marketplace, whether or not for a separate consideration, to reimburse a user sharing property for any damages for which the renter is responsible under the rental home marketplace’s terms of service, with or without additional provision for incidental payment of indemnity.

D. “Platform contract holder” means a platform user who is the beneficiary or holder of a rental home marketplace guarantee.

E. “Person” means an individual, partnership, corporation, incorporated or unincorporated association, joint stock company, reciprocal, syndicate or any similar entity or combination of entities acting in concert.

F. “Provider” means (i) a rental home marketplace or (ii) an affiliate or representative of a rental home marketplace, who issues or offers as well as administers, either directly or through a third party, a rental home marketplace guarantee.

G. “Reimbursement insurance policy” means a policy of insurance issued to a provider and pursuant to which the insurer agrees, for the benefit of platform contract holders, to discharge all of the obligations and liabilities of the provider under the terms of the rental home marketplace guarantee in the event of default or non-performance of the provider under the rental home marketplace guarantee.

Section 3. Requirements For Doing Business

A. A rental home marketplace guarantee shall not be issued or offered in this state unless the provider has made the rental home marketplace guarantee terms available on the provider’s website and complied with this Act.

B. All providers of rental home marketplace guarantees offered in this state shall file a registration with the commissioner on a form and at a fee prescribed by the commissioner.

C. To ensure the faithful performance of a provider’s obligations to its platform contract holders, each provider who is obligated to a platform contract holder shall insure all rental home marketplace guarantees under a reimbursement insurance policy issued by an insurer authorized to transact insurance in this state or issued pursuant to [insert code section permitting surplus lines business].

Section 4. Rental Home Marketplace Guarantees

A. Rental home marketplace guarantees do not constitute insurance and are not required to comply with any provision of the insurance laws of this state provided the provider has complied with this Act.

Section 5. Reimbursement Insurance Policy

A. Reimbursement insurance policies insuring rental home marketplace guarantees offered in this state shall clearly state that, upon default or non-performance of the provider under the rental home marketplace guarantee, the insurer that issued the policy shall pay on behalf of the provider any sums the provider is obligated to pay according to such rental home marketplace guarantee.

B. A reimbursement insurance policy shall be subject to the laws and regulations governing termination and non-renewal of insurance policies in this state or with [citation to specific statute]. The termination of a reimbursement insurance policy shall not reduce the issuer's responsibility for rental home marketplace guarantees issued by providers prior to the effective date of the termination.

C. For purposes of [insert citation to the law that obligates an insurer for the acts of its agents, including the collection of moneys not forwarded] a provider is considered to be the agent of the insurer that issued the reimbursement insurance policy. The insurer retains the right to seek indemnification or subrogation from the provider if the insurer pays or is obligated to pay sums to the platform contract holder that the provider was obligated to pay under the rental home marketplace guarantee. This Act does not prevent or limit the insurer's right in this regard.

Section 6. Consumer Protection and Disclosures

A. Rental home marketplace guarantees shall be written in clear, understandable language and shall specify the terms, limitations, exceptions, conditions or exclusions, including conditions governing transferability or termination.

B. Rental home marketplace guarantees shall contain a statement in substantially the following form: "Obligations of the provider are backed under a reimbursement insurance policy. If the provider is unable or fails to perform on its contractual obligation under a rental home marketplace guarantee within one hundred and eighty (180) days after proof of loss has been filed, a platform user is entitled to make a claim directly against the insurance company subject to the terms of the policy."

C. Rental home marketplace guarantees offered in this state shall include a statement in substantially the following form: "This rental home marketplace guarantee is not an insurance contract."

D. A provider shall not make, permit or cause to be made any false or misleading statement, or deliberately omit any material statement that would be considered misleading if omitted, in connection with the offer or advertisement of a rental home marketplace guarantee.

Section 7. Enforcement Provisions

A. When necessary or appropriate to enforce the provisions of this Act and the commissioner's regulations and orders, and to protect platform contract holders in this state, the commissioner may take action under [insert citation to general enforcement power of commissioner].

B. A person aggrieved by an order issued under this Section 7 may request a hearing before the commissioner pursuant to [insert citation to statutes concerning hearings before the commissioner]. Pending such hearing and the decision by the commissioner, the commissioner shall suspend the effective date of any such order.

Section 8. Authority to Develop Regulations

The commissioner may promulgate regulations that are not inconsistent with and are necessary to effectuate this Act.

Section 9. Severability Provision

If any provision of this Act, or the application of the provision to any person or circumstances, shall be held invalid, the remainder of this Act, and the application of the provision to any person or circumstances other than those as to which it is held invalid, shall not be affected.