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NOLHGA JOURNAL®

A PUBLICATION OF THE NATIONAL ORGANIZATION OF LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATIONS

# Consultation Approach to Asset Recovery Works in Kentucky Central

By WILLIS B. HOWARD
*Senior Vice President and Actuary*
NOLHGA

*In the Winter 1995 edition of the NOLHGA Journal, Tony Buonaguro described co-management as an attractive approach for handling estate assets. NOLHGA followed a different procedure in the Kentucky Central Life Insurance Company insolvency, labeled "consultation" in the earlier article. In December, 1992, less than six weeks before the Feb. 12, 1993 rehabilitation order, KCL had $336 million in mortgage loan and real estate assets.*

**THE INITIAL SITUATION AND THE PROCESS** -- Under the February, 1994 life and health agreement between Jefferson-Pilot Life Insurance Company and the KCL rehabilitator, none of KCL's real estate or mortgage loan assets were transferred to Jefferson-Pilot as part of the reinsurance of KCL's insurance and annuity business. Instead, those assets were retained by KCL to be liquidated. Section 4 of the agreement described how distributions from KCL were to be made following the closing of the reinsurance transaction as the retained assets were liquidated.

When it became apparent that guaranty association participation would be required, the NOLHGA Task Force negotiated the Guaranty Association Participation Agreement with the rehabilitator and Jefferson-Pilot. Under the participation agreement, the associations would receive distributions otherwise payable to Jefferson-Pilot for the benefit of covered policyholders until the guaranty associations were repaid for their funding -- $110 million at closing.

The contractual recognition of the guaranty associations' claim to retained assets satisfied only a part of the task force's concern about the disposition of those retained assets. The task force was also concerned about selling them too cheaply, or holding onto them too long.

*See* KCL, *Page 8*

## *Inside*



*NOLHGA Board Member George Coleman, left, chats with Dr. Joseph M. Belth following Dr. Belth's Members' Participation Council luncheon address Sept. 10 in Indianapolis.*

# Confederation Life Plan Tailored to Address Unprecedented Issues

By ANTHONY R. BUONAGURO
*Executive Vice President and General Counsel*
NOLHGA

Perhaps the most significant event so far in 1996 in the world of U.S. life insurance insolvency was the July 11 filing of the rehabilitation plan for the U.S. branch of Confederation Life Insurance Company. Confederation Life was the Canadian life company which collapsed in August, 1994 - the largest such insolvency in the history of North America. The company had been doing business in the United States through a Michigan port-of-entry. Its U.S. policyholder liabilities at that time were about $6 billion, split almost equally among life policies, payout annuities (primarily structured settlements) and guaranteed investment contracts (GICs).

The plan filing represented the culmination of a long process during which many novel problems were confronted squarely and courageously by the Michigan rehabilitator, assisted by the strong support and cooperation of the U.S. guaranty system, working through NOLHGA.

*See* CONFED, *Page 5*

President's Column

# Flexibility, Creativity Are Hallmarks of the Life and Health Insurance Guaranty System

By Jack H. Blaine
*President*
NOLHGA

What makes the state life and health insurance guaranty and receivership systems unique among similar protection mechanisms is their ability to create solutions to match the special problems of the situation. In most insolvencies, the insurance liabilities are sold in an assumption reinsurance agreement with the guaranty associations funding the asset deficiency to the extent of their covered liabilities. As the principal method for disposing of insolvencies, it works very well for the policyholders -- typically a high percentage receive 100 percent of their contract values and a new, financially sound insurer.

In the large insolvencies like Executive Life Insurance Company (ELIC), Mutual Benefit Life (MBL), Guarantee Security Life (GSLIC) and Confederation Life (CLIC), the very size of the insurance liabilities, or the size of the uncovered (by guaranty associations) liabilities, or the type of assets in the estate, may call for more creative strategies and solutions. The GSLIC solution was formation of a guaranty association owned life insurance company to assume the insurance liabilities and most of the assets of the insolvent estate. The goal was to liquidate the assets, a substantial share of which were troubled or illiquid, in markets more favorable than existed at the time of the insolvency. In MBL, it was the combination of moving the insurance liabilities and assets to a stock subsidiary of MBL, segregate the assets between the guaranty association covered liabilities and the non-covered pension liabilities backed by an industry reinsurance arrangement, and convert the illiquid assets (largely commercial mortgages) to investment grade securities over the work-out period. In ELIC, the problems were also asset related -- a high percentage of high-risk bonds during a distressed market. Most bonds were converted to cash; other assets (primarily real estate) were placed in a trust for co-management by trustees selected by the guaranty associations, the commissioner and policyowner groups; and the insurance liabilities were assumed by a new insurer with guaranty association funding of the asset deficiency over a five-year workout.

The ELIC, MBL and CLIC insolvencies share one feature -- the very large size of the insurance liabilities. The workout plan for each insolvency was tailored to its specific circumstances. With ELIC, the California commissioner's primary goal was disposal of the high-risk bond portfolio in a cash transaction. The New Jersey commissioner wanted to protect the large block of MBL pension business. And with CLIC (U.S.), a major concern is the protection from loss of a very large block of structured settlement annuitants. GSLIC presented a significant asset quality and liquidity problem - an estimated shortfall of some $400 million, had the assets been sold in 1992.

The CLIC (U.S.) rehabilitation plan is unique to this insolvency, and the NOLHGA task force, chaired by Charles LaShelle, president of the Texas guaranty association, has been closely involved in its development over the last two years. It would take a book to describe the efforts that went into the development of this plan, both in hard work and intellectual creativity. As filed with the Michigan receivership court, the CLIC (U.S.) plan will include a series of transactions involving the assumption and sale of separate blocks of business; the segregation of assets to support different classes of liabilities; the trusteeing of certain illiquid assets for future conversion to cash; and the run-off over several years of the structured settlement annuity business. Tony's sketch of the plan's highlights (see Page 1 of this edition) cannot, of course, do justice to the complexities involved. It has been well thought out and, albeit with some risks to the guaranty associations, soundly structured.

If the plan is approved by the Michigan court and succeeds as it should, it will be another tribute to the ability of the system to serve the insurance-buying public by creating novel remedies to complex problems. ▼

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## Coastal States Life Insurance Company

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|---|---|
| DOMICILED | Georgia |
| REHABILITATION | Jan. 24, 1996 |
| AFFECTED STATES | 26 |
| TASK FORCE CHAIR | Jack Falkenbach |
| TASK FORCE | Bart Boles, Texas<br>William Falck, Florida<br>Frank Gartland, Ohio<br>Mike Marchman, Georgia |
| NOLHGA STAFF | Willis B. Howard Jr. |

# Assumption Reinsurance Agreement Reached Less Than Six Months After Rehab Order

By John J. Falkenbach
*Administrator*
Delaware Life and Health Insurance Guaranty Association

The close working relationship between Coastal States Life Insurance Company's receiver's team and the NOLHGA task force led to an assumption reinsurance agreement among the receiver, NOLHGA and Security First Life Insurance Company less than six months after the Jan. 24 superseding order of rehabilitation. The agreement provides for a straight assumption of Coastal States' contracts by Security First.

Coastal States is a Georgia-domiciled company which opened for business in 1939. The current business, however, only dates back to 1990. In 1989, the entire ordinary block of business of Coastal States was assumed by another company. The remaining shell was acquired in 1990 by Financial International Corporation of America. Under FICA management, the company in 1990 began writing primarily annuity business, a line of business it pursued aggressively until 1992.

In January, 1993, the Georgia insurance commissioners filed a petition for rehabilitation, alleging that Coastal States was financially impaired. The original rehabilitation petition was contested vigorously by ownership and management interests, and the commissioner and Coastal States eventually agreed to enter into a consent order of voluntary rehabilitation, issued May 21, 1993. That order called for an audit of Coastal States' financial condition through June 30, 1993, to be performed by an independent accounting firm. The order also stipulated that the company would have 18 months from the completion of the audit to cure any deficiency in its capital and surplus.

By the end of 1995, it became apparent that Coastal States had not resolved the problem and, in fact, maintained a negative capital and surplus position. This resulted in the January superseding order of rehabilitation. NOLHGA was contacted shortly thereafter by the Georgia Department of Insurance and a task force was appointed: Bart Boles of Texas; William Falck of Florida;

*See* COASTAL, *Page 7*

History

# 1969: NAIC Creates Subcommittee to Study Need for Life and Health Insolvency Legislation

By Dana L. Carroll
*Manager, Insurance Services*
NOLHGA

*Work has begun on a project highlighting the history of the guaranty association system from a legal perspective. The project, scheduled for completion in the spring, will include a history of the development of the NAIC Life and Health Insurance Guaranty Association Model Act. Part One explains how model insolvency legislation was created.*

"Protecting the insurance-buying public against insolvencies involves at least three elements: devices for detecting problems as soon as possible; techniques to prevent insolvencies once difficulties are ascertained; and providing guarantee protection when an insolvency occurs."

Life and health insurance guaranty associations are organizations created by state law in the 50 states, Puerto Rico and the District of Columbia. Although a life and health insurance guaranty association was formed in 1941 in New York, it was not until the National Association of Insurance Commissioners adopted a model life and health insurance guaranty association act in 1970 that laws creating such associations were widely enacted by the states. Almost all of the state statutes are based on some version of the NAIC model act.

In 1969, the NAIC created a subcommittee to study the need for legislation on the subject of insolvencies that might involve life and health insurance companies. The (B7) Subcommittee to Study Life and Disability Insurance Insolvencies and Prepare Any Necessary Legislation decided at its June, 1970 meeting in Cleveland to prepare an initial draft of model insolvency legislation. Following a series of meetings, studies and discussions, the subcommittee concluded:

1. No study has demonstrated substantial losses on an aggregate basis to life, annuity and health policyholders attributable to insolvencies. Nevertheless, insolvencies have occurred and losses to the individual victims can be quite severe. These persons purchased their insurance relying on the insurance industry's integrity and good faith in performing contractual obligations. They are entitled to protection.

2. The enactment of insolvency fund legislation, funded by assessments on insurers doing business in the state, should not be viewed in the context of good companies subsidizing the bad. Rather, it provides a mechanism by which each policyholder, through a slightly increased cost, purchases protection for himself against the insolvency of the insurer. This is another form of risk spreading.

3. Protecting the insurance-buying public against insolvencies involves at least three elements - devices for detecting problems as soon as possible; techniques to prevent insolvencies once difficulties are ascertained; and providing guarantee protection when an insolvency occurs.

The subcommittee acknowledged that over the years techniques evolved in the form of statutes, regulations and administrative procedures to help prevent insolvencies and that additional work was being done to further improve preventive measures. The subcommittee, however, opined that a regulatory system that seeks to provide an absolute guarantee against the occurrence of insolvencies might prove to be too onerous to be acceptable and, therefore, there will always be a need for insolvency legislation.

The subcommittee in 1970 drafted and exposed for comment the first NAIC Model Life and Health Insurance Guaranty Association Act. The major industry associations at the time - American Life Convention, Life Insurance Association of America and the Health Insurance Association of America - opposed the promulgation of model insolvency legislation. The industry associations felt that such legislation was immature because they felt the subcommittee did not complete its assignment to study life and disability insurer insolvencies and their causes and explore other approaches to the insolvency problem. The industry associations recommended that any action with respect to model insolvency legislation be deferred until there was credible evidence indicating a need for the specific model legislation under consideration by the subcommittee.

*See* MODEL ACT, *Page 10*

CONFED, *from Page 1*

*Rehabilitation capitalist Sam Zell, left, takes a break with Legal Seminar Chair Chris Wilcox and NOLHGA President Jack Blaine during NOLHGA's Fifth Annual Legal Seminar Aug. 19 in San Francisco. Mr. Zell, one of the bidders for the business of Executive Life Insurance Company, purchased property from the insurer's real estate portfolio.*

Among the problems:

• Assets backing liabilities were highly illiquid, and included $3 billion in mortgage loans and $1.5 billion in private placement bonds.

• Assets nominally included over $600 million in notes of Confederation Treasury Services, Ltd. (CTSL), the insolvent treasury operations arm of the worldwide Confederation empire. These notes had been "slipped into" the U.S. asset trust over time and constantly rolled over in a manner unbeknownst to the Michigan Department of Insurance. It appears a scheme was concocted whereby hard assets were siphoned out of the United States to support Confederation's money-losing non-life operations.

• The rehabilitator was faced with sometimes acrimonious litigation in multiple proceedings in several jurisdictions. Besides the main court proceeding in Michigan, the rehabilitator had to deal with the effects of separate Canadian liquidation proceedings involving the Confederation Life corporate entity and CTSL. In addition, he started a treble damages action in Michigan against the company's former officers, directors and accountants, but was challenged by a similar, though conflicting, lawsuit begun by class action attorneys in federal court in Georgia.

• The nature of U.S. liabilities was such that it quickly became apparent that the business of the branch would not lend itself to a bulk assumption reinsurance transaction with a single carrier, but rather had to be sold piecemeal to maximize value. In particular, the payout annuity block appeared to be unsellable for a long while.

On top of all this, the rehabilitator and NOLHGA had to negotiate a way for the guaranty system to integrate its coverage into a plan made complex by these fundamental driving forces.

Dealing with any one of these problems would have been daunting in its own right. That all of them required simultaneous attention presented a task of gargantuan proportions. The plan contains several features designed to address these issues:

• In the largest transaction of its kind, the rehabilitator has securitized and sold off most of the

*See* Confed, *Page 6*

Case Study

CONFED, *from Page 5*

commercial mortgage loan portfolio for cash. The plan calls for allocation of liquid assets to the respective policy blocks, with subsequent loans back from the payout annuity block to the life block to supplement guaranty association coverage and buyer enhancements. The expected result: that life policyholders will be paid in full. This type of asset re-allocation is the first of its kind in a life company insolvency.

•The plan calls for continued, aggressive pursuit of payment on the CTSL notes, both in the CTSL insolvency itself and in the third-party action against the alleged wrongdoers. Such intimate, high-stakes involvement in foreign court proceedings also appears to be a first. Guaranty associations essentially will commit to fund their covered percentage of the initial shortfall resulting from the CTSL debacle and will participate with the rehabilitator to realize as much of the value of the investment as possible in order to be repaid. Meanwhile, the rehabilitator benefits from a stay obtained in the competing action in Georgia.

•Also unprecedented was the June 11 signing of an agreement with the liquidator of the Canadian estate to sever most relations between the U.S. and Canadian estates, an act which will eliminate huge potential legal and practical problems resulting from the lack of congruity between the laws in the two nations. The agreement calls for the Canadian estate to pay $165 million to the U.S. estate and guarantees that the U.S. estate will realize at least $110 million on its CTSL investment. The agreement must be approved by the Michigan court as part of the plan. Guaranty associations and uncovered policyholders will, of course, benefit greatly from these payments.

•Not unprecedented, but highly unusual, is the piecemeal sale of policy blocks on the scale contemplated by the plan. Assumption reinsurance of large corporate and bank-owned life insurance blocks with reputable carriers that has already been negotiated must be approved as part of the plan confirmation. Bid packages have recently gone out for assumption reinsurance of the remaining individual life policies. Guaranty associations will support each of these transactions with substantial funding. In addition, GICs will be entitled to receive substantial coverage payments from guaranty associations shortly after the plan is confirmed.

•Perhaps the most novel solution contained in the plan, patterned after a structure pioneered in the much smaller Executive Life of New York case, is the manner in which payout annuities will have their coverage continued. These policies will be placed in a new, separate entity which will be funded with a combination of estate assets and minimum guaranty association contributions of $100 million in the aggregate over a 10-year period. If, over time, the assets build up enough to fund a satisfactory assumption reinsurance transaction with a reputable carrier, the policies will be moved to a new, permanent carrier. If that doesn't happen, the policies will be allowed to run off where they stand over many years. Current estimates indicate that, either way, these needy policyholders will continue to be paid in full.

•Last, but not least, the plan calls for a co-managed governance structure which will insure real partnership among the rehabilitator, the guaranty associations and policyholder groups. Illiquid assets will be placed in a liquidation trust management by a board of trustees whose members will be appointed by each group. The payout annuity entity will be similarly co-managed.

*NOLHGA's manager of conference services, Christine Dalton, receives a going-away gift from MPC Chair Frank Gartland at the September meeting in Indianapolis.*

The considerable success realized to date does not, however, mean that there are no storm clouds on the horizon. Some policyholders, primarily GIC holders working through the Association of Confederation Life Contractholders (ACLIC), have complained about certain key aspects of the plan. ACLIC has threatened to challenge the rehabilitator over his methodology for valuing claims and allocating reinsurance enhancements at the plan confirmation hearings, scheduled to begin Oct. 15. ACLIC also will challenge the fundamental policyholder status of structured settlement annuities owned by insurance companies, arguing that it is really reinsurance in disguise. This will be the first case in which this challenge has been raised. As we go to press, the NOLHGA task force is immersed in planning for the upcoming hearings. ▼

COASTAL, *from Page 3*

Frank Gartland of Ohio; Mike Marchman of Georgia; and Chairman Jack Falkenbach of Delaware. Tim Hart of Arthur Andersen was retained as financial consultant; Dick Freije of Baker & Daniels was retained for legal matters; and Larry Warnock of KPMG Peat Marwick was retained as actuarial consultant. Bill Howard of NOLHGA was designated project manager.

The task force's working group first met with the receiver's team Feb. 27-28 in Atlanta. The receiver's team included Deputy Receiver Bill O'Connell from the insurance department; Special Deputy Receiver Hank Sively of MC Consulting; Tom Player, Lou Hasset and Steve Najar of the law firm Morris, Manning and Martin; John Humphries, an actuarial consultant; and Julie Curry, an actuarial consultant with Ernst & Young. This group was especially open and forthright in sharing information with the working group, and they shared NOLHGA's concern about protecting the interests of Coastal' States' policyholders.

The working group understood immediately that the company's estate was significantly impaired, that rehabilitation in this instance was not feasible and the ultimate resolution would be liquidation of the company. A joint work plan, developed at the first meeting, called for the NOLHGA task force and the receiver's team to work together to solicit bids to reinsure the Coastal States block of business and find a safe and secure home for the company's policyholders in a manner that would satisfy the statutory obligations of the participating guaranty associations.

At the meeting, the receiver's team provided the working group with substantial detail regarding Coastal States' background and history, its financial status, products, operations and legal issues impacting the eventual disposition of the estate. A 10-week timetable was established, which called for the development of a bid package for the assumption reinsurance of the business, solicitation of bidders, review of bids and selection by June of a lead bidder. A goal of both the task force and the receiver's team was that to the extent possible, unmodified coverage would continue for the policyholders' i.e., the transfer of the business would be a straight assumption.

Bids were solicited by mid-March; bid packages were mailed in early April; bids were received by mid-May and a lead bidder, Security First Life Insurance Company, was selected on June 3 by the task force and the receiver.

Security First's bid involved a straight assumption of all Coastal States' life and annuity business, other than those policies on foreign residents. Intense negotiations among the receiver, NOLHGA and Security First resulted in the July execution of a reinsurance agreement.

A glitch occurred - it was determined that all of Coastal States' annuities, other than those issued to qualified plans, likely would not comply with the Internal Revenue Code Section 72 (s). The reinsurance agreement required that this matter be resolved with the Internal Revenue Service prior to closing. The parties negotiated with the Atlanta office of the IRS and a closing agreement was signed Aug. 30.

While all affected guaranty associations have opted to participate in the assumption reinsurance agreement, the participation of two states hinges on the resolution of other matters with the insurance regulators in those states. The task force is optimistic that those issues will be resolved in a timely manner. The plan of liquidation, including the assumption reinsurance agreement, is scheduled for a hearing before the receivership court on Sept. 18. It is expected that the court will approve the plan and that closing can occur in October.

*"A goal of both the task force and the receiver's team was that to the extent possible, unmodified coverage would continue for the policyholders..."*

Due to the close cooperation between the Georgia receiver's team and the NOLHGA team, the October closing will result n all U.S. policyholders having continuous, unchanged coverage (up to guaranty association limits) with a financially sound insurer, within nine months from the order of rehabilitation.

## Case Study

KCL, *from Page 1*


*Tennessee Insurance Commissioner Douglas Sizemore cautioned against too much regulation of the life and health insurance industry at a June 25 MPC breakfast in Memphis, Tenn.*

To address these concerns, the task force also negotiation participation in the management of the retained assets and a right of first refusal for proposed sales.

The participation agreement required quarterly asset management meetings and granted NOLHGA the right to attend and participate in those meetings. NOLHGA also had the right to participate in (i) special meetings between the liquidator and his asset managers involving the disposition, encumbrancing or pledging of any retained real estate asset valued at or about $500,000 on KCL's annual statement for the year ended Dec. 31, 1993; (ii) the review of annual asset management reports; and (iii) any proceeding held before the Liquidation Court concerning the disposition, encumbrancing or pledging of any retained real estate asset. Participation gave NOLHGA the ability to influence and, if necessary, challenge asset management strategy and tactics.

The right of first refusal for proposed sales gave the guaranty associations the ability to acquire assets on the terms and conditions of any purchase offer the liquidator thought was acceptable. The purchase price was to be in the form of a release of the guaranty associations' claims in the amount of the purchase price. The purchase would, in effect, become a distribution to the guaranty associations. The guaranty associations would then be free to realize any higher sales price that they could obtain without further reduction of their claims against KCL. On the other hand, they would run the risk that the assets could not be sold for what they had paid. Finally, the task force negotiated the right to take the real estate assets remaining at the end of the five-year reinsurance plan period to safeguard against prolonged and unnecessary management of the assets.

In February, 1995, NOLHGA and the liquidator agreed to procedures to implement NOLHGA's rights regarding real estate. The implementation procedures were incorporated into Article XX of the implementation memorandum executed by the liquidator at the May 31, 1995 closing.

In practice, the real estate advisors for the two parties have gone beyond the requirements, and have exchanged a generous amount of information. This free flow of information has enabled NOLHGA to understand the recommendations being provided the liquidator. By obtaining appraisals and comparative sales data on real assets being offered for sale, NOLHGA has the information necessary to determine whether to support the proposed action or to question it.

**Comparison with Co-Management** - **Assertion:** "Clearly, co-management has advantages for guaranty associations."
**Response:** If NOLHGA may appoint only a minority of trustees, where is the advantage over participation in asset management and an overbid right?

**Assertion:** "Our experience shows that significant cost benefits can be achieved by a co-management vehicle, especially in large cases."
**Response:** Cost comparisons are difficult. NOLHGA's direct expense for real estate consultants in KCL for the first 15 months since closing is approximately 0.1 percent of projected KCL real estate proceeds. The liquidator's annual real estate management expenses are about 1.25 percent of assets. However, disposing of troubled KCL real estate assets may be no more expensive than disposing of the real estate assets in the ELIC trusts.

**Assertion:** "Creating a co-management vehicle such as a trust raises other thorny issues. How would it be taxed?"
**Response:** The KCL consultation approach avoids these issues, and the associated expense of resolving them.

**Conclusion** - The ostensible weakness of the consultation approach compared to co-management is that NOLHGA has no vote in real estate disposition activity. However, the task force does have input through the asset management meetings and the Liquidation Court, and has the power of the purse through the overbid right. The rights to receive information and to participate in asset management meetings give the guaranty associations, as the largest collective priority creditors, the equivalent of the British Monarchy's position of "one who reigns but does not rule." In addition, the overbid gives NOLHGA a powerful position from which to negotiate, should that become necessary.

The KCL estate has benefited from capable advisors and a recovering real estate market. To date, the proceeds from disposition of KCL real estate are ahead of projections, and there is no evidence that the consultation approach produces results that are inferior to the co-management arrangement. ▼

Tony Buonaguro responds: *"Bill is correct with respect to real estate, but the overbid right is essential. Unfortunately, it may be naive to think we can negotiate this in future deals. The KCL structure, of course, does not work for all litigation claims."*


*The B and O Railroad Museum, which marks the original starting point of the Baltimore and Ohio Railroad, is within walking distance of the Renaissance Harborplace Hotel, site of NOLHGA's 13th Annual Meeting. Register now for the Oct. 28-30 meeting.*

## Southeastern States Convene to Discuss Association Operations

By Lisa M. Meyer
*Manager, Industry Communications*
NOLHGA

Representatives of several southeastern states convened July 25-26 in Charleston, S.C. for the first regional meeting of the state life and health insurance guaranty associations. The idea for regional meetings was conceived some years ago by Percy Marchman of the Georgia Life and Health Insurance Guaranty Association.

Andrea Bowers of South Carolina and Peggy Parker of Virginia met early this year to discuss plans for such a meeting. A handful of administrators gathered informally during the March MPC meeting in Phoenix, Ariz., and decided to hold the first southeastern regional meeting in July. Eleven guaranty associations were invited to participate: Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia and West Virginia. Only Mississippi, Tennessee and West Virginia were unable to attend. Paul Peterson, NOLHGA's vice president, accounting and finance, also was invited to attend.

The administrators discussed ways to collaborate and coordinate their efforts to create efficiencies and reduce costs to the system. Regional work could greatly reduce duplication of effort. Among the topics covered: insolvency work; personnel procedures; filing systems; accounting procedures; equipment purchases and maintenance; bidding of services; disaster recovery; reports to receivers; and relationships with individual guaranty association boards of directors and state insurance departments.

Ms. Bowers coordinated the meeting arrangements and accommodations and Ms. Parker prepared an agenda and prepared mailings. Meeting space was donated by Atlantic Coast Life Insurance Company through the efforts of South Carolina board member Wallace Scarborough.

The southeastern states plan to meet again, perhaps in January. Dottie Neel of Alabama and Phyllis Perron of Louisiana are handling the details. Other groups have discussed holding regional meetings as well - the midwestern states hope to convene in early 1997.

To obtain a copy of the agenda from the July meeting, please fax this page to Carol Rousseau at NOLHGA, 703/481-5209.

*I would like a copy of the agenda from the July meeting of the southeastern states.*

________________________
*Name*

________________________
*Association, Firm or Company*

________________________
*Fax Number*

## History

Model Act, *from Page 4*

The associations went on to say that any model bill for life and health insurance should include certain principles which they believed were essential ingredients to any such legislation:

- Continuation of life insurance and health insurance coverages;
- Coverage of health insurance policies regardless of whether the policies were written by a life insurer or a casualty insurer;
- Coverage to all policies of an insolvent domestic company wherever the policyholder resides and coverage to state residents who own policies of an insolvent foreign or alien insurer;
- Post-impairment assessment not to exceed 2 percent;
- Provide provisions to prevent duplication of benefits to an insured or beneficiary should more than one guaranty law be applicable to the particular contract;
- Permit certificates of assessments paid to be shown as assets on financial statements;
- Permit assessments to be offset against premium taxes or income taxes;
- Provide for use of temporary liens and moratoriums on covered contracts;
- Include provisions designed to allow early detection and prevention of insolvencies;
- Establishment of an association made up of industry representatives to administer the guaranty law;
- Limit coverage of benefits to a reasonable dollar amount;
- Provide standards of responsibility on the part of a holding company for its life and health insurance company subsidiaries; and
- Guaranty law is applicable only to insolvencies that occur after the effective date of the legislation.

Over life industry objections, the NAIC adopted the Life and Health Insurance Guaranty Association Model Act. Due to the lack of support from the life insurance companies, the model act, unlike the property and casualty model act, was not adopted quickly by the states.

“Over life industry objections, the NAIC adopted the Life and Health Insurance Guaranty Association Model Act.”

The 1970 model act provided for protection for all policyholders and contract holders and their beneficiaries against losses in terms of claim payments and continuing coverage in the event of an impairment or insolvency of a domestic life insurer. Life insurance, health insurance, annuity contracts and supplemental contracts were all covered. Policies excluded from coverage included reinsurance, except in cases where assumption certificates were issued, and policies where the policyholder bares any of the risk; e.g., variable life and variable annuity policies. Coverage was limited to $300,000 in death benefits.

The association was charged to guarantee, assume or reinsure the covered policies, assure payment of the contractual obligations, and provide funds necessary to discharge its duties in the event a domestic, foreign or alien insurer was impaired and under an order of liquidation or rehabilitation.

To obtain the funds necessary to carry out the obligations of the association, the association was authorized to assess its member insurers (all insurers licensed to write life and health insurance in the state) accordingly. There were three classes of assessments:

1. **Class A** - Administrative costs and other general expenses not related to a particular impaired insurer;

2. **Class B** - Amounts necessary to carry out obligations with regard to an impaired domestic insurer; and

3. **Class C** - Amounts necessary to carry out obligations with regard to an impaired foreign or alien insurer.

Assessments were calculated based on the member insurer’s premiums and were not to exceed 2 percent of the insurer’s total premiums. Assessments might be abated or deferred for a member insurer if the payment of the assessment, in the opinion of the association’s board, would endanger the ability of the member insurer to fulfill its contractual obligations. Member insurers were allowed to consider the cost of assessments in determining their premium rates and policy owner dividends, and were allowed to include certificates evidencing assessments paid as assets in financial statements to the extent permitted by the commissioner of insurance. ▼

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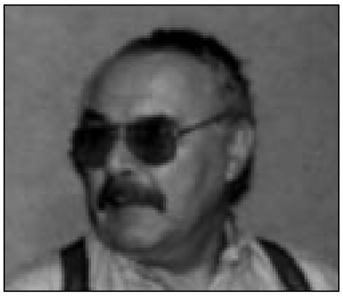
Part Two, to be published in the Winter 1996 edition of the NOLHGA *Journal*, highlights the significant revisions and amendments made to the Model Life and Health Insurance Guaranty Act over the past 20 years.

## Administrator Profiles

JEAN C. HASCH, EXECUTIVE DIRECTOR
*Maine Life and Health Insurance Guaranty Association*

Ms. Hasch has been executive director of the Maine guaranty association since 1992. She is also director of government relations at UNUM Corporation in Portland, Maine. During her 13 years with UNUM, Ms. Hasch has served in various capacities in marketing and administration management. Ms. Hasch serves on both the Guaranty Association Accounting Model Task Force and TPA / Audit Policy Task Force. She is a graduate of the University of Maine.

JOHN S. BORITAS, EXECUTIVE DIRECTOR
*(Maryland) Life and Health Insurance Guaranty Corporation*



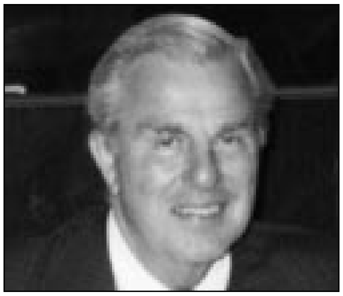
Mr. Boritas has been executive director of the Maryland guaranty association since August, 1993. He had been in Metropolitan Life Insurance Company's government relations department for 23 years. While with MetLife, he served on the guaranty association boards in Georgia, Maryland, Ohio, Tennessee and West Virginia, where he also was chairman. Mr. Boritas serves on the Corporate Life and Monarch Life Task Forces. He has a BA from City College in New York and an MBA from Pace University, also in New York.

RAYMOND A. TERFERA, EXECUTIVE DIRECTOR
*Massachusetts Life and Health Insurance Guaranty Association*

Mr. Terfera has been executive director of the Massachusetts guaranty association since 1992. He retired from Monarch Life Insurance Company in December, 1991, after 27 years of service. Prior to joining Monarch, he practiced law in Hartford, Conn. Mr. Terfera serves on the Confederation Life Task Force. He is a graduate of American International College and Boston College Law School.

GERALD C. BACKHAUS, ADMINISTRATOR
*Minnesota Life and Health Insurance Guaranty Association*

Mr. Backhaus has been executive director of the Minnesota guaranty association since July, 1993. He practiced law privately for a few months after retiring from St. Paul Fire and Marine Insurance Company as associate general counsel . Before joining St. Paul, he was senior vice president, secretary and general counsel for Postal Financial Corporation, Inc. Mr. Backhaus has a B.S. and a law degree from Drake University and a degree from the University of Pittsburgh School of Management. He serves on three insolvency task forces and on the Communications Committee.



DAVID T. WARNER, EXECUTIVE DIRECTOR
*Pennsylvania Life and Health Insurance Guaranty Association*

Mr. Warner has been executive director of the Pennsylvania guaranty association since 1992. He was employed by Provident Mutual Life Insurance Company for 34 years, retiring in 1989 as vice president , underwriting. He was a consultant, serving as an expert witness, for three years before joining the guaranty association. Mr. Warner is a member of the Confederation Life, Corporate Life, National American Life and Summit National Life insolvency task forces. He has a degree in mathematics from Princeton University and is a fellow of the Society of Actuaries.

# CALENDAR

NOLHGA ®

## MEMBERS' PARTICIPATION COUNCIL

| | |
|---|---|
| Dec. 3-5, 1996 | Hyatt Regency, Denver |
| Feb. 19-21, 1997 | Westin Century Plaza, Los Angeles |
| May 13-15, 1997 | Hotel to be determined, Boston |
| Aug. 19-21, 1997 | Hyatt Regency, Milwaukee |
| Nov. 17-19, 1997 | Hyatt Regency, Louisville, Ky. |

## BOARD OF DIRECTORS

| | |
|---|---|
| Oct. 28, 1996 | Renaissance Harborplace Hotel, Baltimore |

## ANNUAL MEETING

| | |
|---|---|
| Oct. 28-30, 1996 | Renaissance Harborplace Hotel, Baltimore |

Visit the NOLHGANet home page at http://www.nolhga.com. Call Beth Watson at 703/318-1162 for more information.

NOLHGA

National Organization of Life and Health
Insurance Guaranty Associations
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