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U.S. House Prepares to Introduce Legislation to Streamline Agent Licensing

NAIFA is working closely with two members of the House Financial Services Committee who will soon introduce legislation to ease the multi-state licensing system for insurance agents. Sponsored by Rep. David Scott (D-GA) and Rep. Geoff Davis (R-KY), the draft bill known as NARAB II, would establish a new licensure clearinghouse for insurance producers who choose to operate in multiple states.

What does NARAB stand for?

The concept of NARAB or the “National Association of Registered Agents & Brokers” was originally included in the Financial Services Modernization Act, known as the Gramm-Leach Bliley Act (GLBA), which was enacted in 1999. The original NARAB would have established a licensure clearing house if a majority of the states did not enact reciprocity legislation within three years after the enactment of GLBA. Because the states determined that the threshold was satisfied, the clearing house was never established. However, issues burdening the ability for both individuals and agencies to obtain licenses on a multi-state basis remain, and the intent of the new effort – dubbed “NARAB II” – is to move forward with actually establishing the clearing house for interstate licensure.

What does NARAB II mean for NAIFA members?

The draft NARAB II bill is modeled closely on the original NARAB provisions. For NAIFA members, any producer (individual or agency) licensed in their home state could choose to join NARAB and be held to a single licensing and continuing education standard for every state in which they choose to do business. The NARAB standards would be determined by a board made up of insurance commissioners, producers and carriers. Through NARAB, any NAIFA member would be able to obtain a license to act as a producer in any state other than their

home state by paying the required state licensure fees. Non-home states would be prohibited from imposing any other licensing or other qualifications to do business requirements.

Other quick facts about the NARAB II proposal:

- NARAB II is a draft proposal that is expected to be introduced in the U.S. House by spring of 2008.
- Membership in NARAB is optional
- There will be fees for NARAB membership that will be established by the NARAB governing board.
- NARAB members would be governed by NARAB's continuing education requirements and no state other than a producer's home state could impose CE requirements on NARAB members
- Non-resident states would continue to have the power to discipline NARAB licensed producers and to suspend their licenses
- The NARAB Board must coordinate disciplinary efforts with the states and establish a consumer complaints office.
- The NARAB Board can seek a court order if necessary to enforce its disciplinary actions.
- The NARAB Board would be composed of insurance commissioners, insurance producers (including a NAIFA representative) and carriers.
- NARAB II does not create a federal regulator for insurance.

To hear experts discuss the details of NARAB II, tune into the NAIFA's March GovPod on this issue, available at www.naifa.org/govpod.

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NAIC Assesses State-By-State Producer Licensing Regulation

The National Association of Insurance Commissioners recently unveiled a study of the progress made in modernizing producer licensing regulation over the past 10 years.

The NAIC Producer Licensing Assessment reviews agent licensing rules across the country and points to successes in streamlining licensing procedures as well as areas where improvement is still needed to bring uniformity and reciprocity to the state-by-state licensing system.

The assessment project was conducted in conjunction with the NAIC/Industry Producer Licensing Coalition – a group of insurance regulators and industry organizations of which NAIFA is a member.

The assessment's goals were to determine whether states continue to meet the licensing reciprocity requirements imposed by the Gramm-Leach-Bliley Act (GLBA), the states' progress in complying with the NAIC's uniform standards for resident licensing, and the areas states must address to achieve greater uniformity and reciprocity in the agent licensing system. To conduct the assessment, multiple teams of licensing regulators and NAIC staff conducted site visits to the insurance departments in every state, D.C. and Puerto Rico over a three-month period.

The assessment found the following areas of improvement in agent licensing in recent years, among others:

- 43 states satisfy the GLBA reciprocity mandate, which allows reciprocal licensing of non-resident agents.
- All states report their producer licensing information to the NAIC's centralized State Producer Licensing Database, which facilitates electronic non-resident licensing by most states and protects consumers and the industry from rogue agents who cross state lines.
- Most states use some form of electronic licensing system to simplify and expedite the licensing process, employing the services of the National Insurance Producer Registry (NIPR).
- A majority of states now use the NAIC Uniform Applications for individuals and business entities, rather than varying state licensing applications.
- Nearly all states now use a National Producer Number for licensing purposes, rather than state-specific licensing or social security numbers.
- Nearly all states have implemented NIPR's centralized, electronic address change request system, eliminating the need for paper notifications of address changes to separate insurance departments.
- Most states now process producer appointments electronically using NIPR.
- High compliance (35 or more states) exists with respect to 26 of the 37 NAIC Uniform Resident Licensing Standards.

The assessment also identified the following areas for improvement, among others, which the report recommends the NAIC address moving forward:

- Low compliance (less than 35 states) exists with respect to 12 of the 37 NAIC Uniform Resident Licensing Standards, including the standards for accepted lines of authority, use of electronic fingerprinting for new resident licensee background checks, use of the NAIC uniform application, and continuing education exemptions.
- The need to streamline business entity licensing and Secretary of State registration requirements for non-resident business entities.
- The need for greater coordination between national producer groups and their state affiliates in seeking implementation of agent licensing reform initiatives, suggesting that professional standards for producers be developed and supported.

Improving the agent licensing system is an important goal for NAIFA and NAIFA has supported the NAIC's producer licensing uniformity and modernization initiatives. A more efficient licensing system would reduce cost and time-consuming bureaucracy for NAIFA members, especially those licensed in multiple states, so they can better spend their time serving their clients.

- Read the NAIC Producer Licensing Assessment at www.naifa.org/advocacy/documents/plareport_02192008.pdf

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State Government Officials Oppose Optional Federal Charter

Leading state government officials recently issued statements opposing proposals to create an optional federal system of insurance regulation as an alternative to the current multistate system. Both the National Association of Insurance Commissioners and the National Conference of Insurance Legislators praised state-based insurance regulation and criticized calls for an optional federal charter (OFC) for companies and agents.

In a February 15 letter to the President of the American Insurance Association, NAIC President and Kansas Insurance Commissioner Sandy Praeger expressed some of the NAIC's reasons for opposing the creation of an OFC. Commissioner Praeger pointed to the success of state-based regulation in protecting local consumers and warned of the dangers state regulators see in a federal system. Commissioner Praeger questioned whether the federal government could replicate the work of 50+ insurance departments nationwide, cautioned that federal oversight may be far less comprehensive than the current state-based system and suggested that federal regulation would eventually put critical state premium tax dollars at risk.

Consistent with the NAIC letter, the National Conference of Insurance Legislators (NCOIL) adopted a model state resolution opposing OFC legislation at its spring meeting this week. NCOIL is an organization of state legislators whose main area of public policy interest is insurance legislation and regulation. The NCOIL resolution touted recent state regulatory modernization efforts and warned that federal regulation could undermine state-based consumer protection.

NAIFA is open to considering all reform proposals that improve the insurance regulatory landscape for NAIFA members and is neutral on the current OFC legislation.

- Read Commissioner Praeger's letter at www.naifa.org/advocacy/documents/naic_ofc_02152008.pdf
- Read the letter Commission Praeger responded to, from Marc Racicot, President of the American Insurance Association, at www.naifa.org/advocacy/documents/aia_ofc_02132008.pdf
- You can read the NCOIL Resolution at the NCOIL website, at www.naifa.org/advocacy/documents/ncoil_02292008.pdf

To learn more about NAIFA's position on insurance regulatory reform and OFC, visit the insurance regulatory reform section of NAIFA's website at www.naifa.org/advocacy/irr

To hear NAIFA experts discuss insurance regulatory reform topics, listen to the NAIFA GovPod series on this issue at www.naifa.org/govpod

- March GovPod – NARAB II
- February GovPod – The State of State Insurance Regulation
- January GovPod – Optional Federal Charter

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National Conference of Insurance Legislators Tackles Key Issues at Spring Meeting

The National Conference of Insurance Legislators (NCOIL) addressed several important topics at its spring meeting in D.C. last week, including the use of senior designations, online producer licensing systems and the interstate compact.

NAIFA Participates in NCOIL Panel Discussion on Designations

NAIFA was part of a panel discussion on the use of senior designations during the Life Insurance and Financial Planning Committee session at the NCOIL meeting held in Washington, D.C. Gary Sanders, NAIFA Senior Counsel, represented NAIFA on the panel, which also included Karen Tyler, North Dakota Securities Administrator and current president of the North American Securities Administrators Association (NASAA), and a representative from the AARP.

In his remarks, Sanders noted that NAIFA was probably the first insurance industry group to engage in this issue when federal and state lawmakers as well as the national media began raising concerns about senior citizens being misled by agents using designations that implied a level of expertise in senior affairs that in fact does not exist.

Sanders provided information on the numerous meetings that NAIFA has had in recent months with various legislators, regulators and industry groups to discuss this issue, and he described the key elements of NAIFA's policy on the regulation of designations. These include uniformity as part of any solution, both from state to state and across product categories; the use of an objective rather than a subjective method for determining any limits on the use of designations; and the need for front-end protection for consumers, to help them wade through the dozens of designations and certifications that are being used, as well as the back-end enforcement provided by laws that declare a misleading use to be illegal.

The NCOIL Life Insurance Committee will continue to study this issue and may begin work on a proposal in the coming months.

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NCOIL Adopts Resolution Supporting NIPR

Also discussed at the NCOIL meeting was the National Insurance Producer Registry (NIPR). The NCOIL State-Federal Relations Committee adopted a resolution in support of the NIPR. The resolution recognized that NIPR, a non-profit affiliate of the National Association of Insurance Commissioners (NAIC), is working to establish an online one-stop facility where the insurance industry can satisfy all of its licensing and appointment needs and obligations. The resolution calls on all state insurance departments to work cooperatively with NIPR with a specific goal of all states offering new and renewal licenses to nonresident agents by December 31, 2008.

NIPR is governed by a board of directors consisting of commissioners and industry representatives. NAIFA Senior Vice President Bill Anderson has a rotating position on the board and NAIFA submitted a letter to the NCOIL committee in support of the resolution.

You can read the full text of the resolution at www.ncoil.org/schedule/Forms/2008/Spring/30Day/NationalproducerRegistryResolution.pdf

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State Officials Urge Nationwide Adoption of Interstate Compact

At its meeting last week, NCOIL approved a joint letter urging nationwide adoption of the interstate compact for insurance product approval. If approved by state groups in addition to NCOIL, the letter would be sent to state insurance commissioners and legislators in states that are not yet compact members and would be signed by the presidents of the NCOIL, the National Association of Insurance Commissioners (NAIC), the National Governors Association and the National Conference of State Legislatures.

The joint state officials' letter highlights the benefits of the interstate compact, noting that the compact will modernize and improve state insurance regulation by increasing speed-to-market for certain insurance products and promoting efficiency and uniformity in the product approval process.

The goal of the interstate compact is to improve speed-to-market conditions for life, annuity, long-term care and disability income products. The compact allows companies to file new products for approval with one state-based entity – the compact commission – for sale in every state that enacts the compact law, rather than filing products separately state-by-state.

Thirty states have already adopted the compact, representing half of the national premium volume for the covered products. Compact legislation is also currently pending in several additional states (AL, CA, CT, DC, IL, MO, NJ, NY, SC, and WI). The compact commission is up and running and has already accepted and approved several product filings from a number of different companies in less than 60 days.

NAIFA and its state associations support the compact and have pressed for the compact's adoption throughout the country so that innovative products satisfying high uniform standards will be available sooner for agents to offer their clients. As the leading associations representing agents selling all the products covered by the compact, NAIFA and AHIA are the only producer representatives on the compact commission's insurance industry advisory committee. NAIFA hopes the compact will become law in every state to make product speed-to-market a reality for all agents and their clients. NAIFA members are urged to support the compact if it is introduced in their state, and to ask their insurance commissioners and state legislators to introduce the compact if it is not yet on their legislative agenda. Hopefully, the NCOIL-sponsored state leader letter to non-compacting states will help to move the compact adoption process to its national goal.

- Read the NCOIL draft joint state leader letter urging approval of the interstate compact in non-compact states at www.naifa.org/advocacy/documents/ncoil_draft_0208.pdf
- To learn more about the interstate compact, visit the Insurance Regulatory Reform section of NAIFA's website at www.naifa.org/advocacy/irr/irc.cfm
- To hear NAIFA experts discuss the interstate compact (and other efforts to improve state insurance regulation) listen to the February NAIFA GovPod "The State of the States" at www.naifa.org/advocacy/podcasts.cfm

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Do-Not-Call List is Here To Stay

President Bush signed legislation in February that keeps phone numbers on the federal do-not-call list indefinitely and permanently extends the Federal Trade Commission's authority to collect fees to operate the national Do-Not-Call Registry. Without these new laws, listings were to remain on the Do-Not-Call Registry for only five years, after which the numbers would be removed automatically unless re-registered by consumers (the first listings from 2003 were set to expire later this year). The legislation also lowers the current fees charged to telemarketers who subscribe to the Do-Not-Call Registry and provides for annual fee increases.

The Do-Not-Call Improvement Act of 2007 (H.R. 3541), which passed by voice vote, prohibits the removal of phone numbers from the federal Do-Not-Call registry unless the number is invalid, disconnected or reassigned, or the person assigned to the number requests its removal. The law requires the FTC to check numbers on the registry periodically and to remove those numbers that are abandoned or inaccurate. The legislation also mandates that the FTC report to Congress on its efforts to improve the accuracy of the do-not-call list.

The companion bill, the Do-Not-Call Registry Fee Extension Act of 2007 (S. 781), was approved by unanimous consent, and permanently extends the FTC's authority to collect fees to operate and enforce the federal Do-Not-Call registry (the FTC's power to collect do-not-call list subscription fees was set to expire at the end 2007). The new legislation sets fees for telemarketers who subscribe to the registry at lower rates than those currently charged by the FTC.

Telemarketers who subscribe to the registry to periodically update their records of phone numbers added to the do-not-call list will be charged \$54 annually for individual area code information or \$14,850 for access to every area code in the country (no fee is charged for the first five area codes accessed). The FTC's subscription fees will increase annually after 2009 in accord with CPI increases, and the FTC is required to report to Congress every two years regarding the status of the do-not-call program.

With more than 145 million listings, the national Do-Not-Call Registry, for good or for bad, is one of the most publicly popular and successful federal programs in recent years. With this latest federal action, the registry appears here to stay.

To learn more about the federal do-not-call list, visit the National Do-Not-Call Registry website at <https://telemarketing.donotcall.gov>

To learn more about NAIFA's position on telemarketing issues, visit the Advocacy section of the NAIFA website at www.naifa.org/advocacy

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Producer Compensation Disclosure—Be Alert

Several years ago, as a result of legislative and regulatory developments brought on by the investigation into insurance brokerage activities and subsequent legal action against a select number of companies and several of their top executives that then New York State Attorney General Eliot Spitzer spearheaded, the disclosure of a producer's commission was considered as a possible answer to some marketplace abuses that were identified.

NAIC Response

In response to Spitzer's investigations, the National Association of Insurance Commissioners formed a Task Force to develop a legislative response. On December 29, 2004, the NAIC adopted amendments to the Producer Licensing Model Act (PLMA) suggested by the Task Force.

NAIFA's Response

Several months prior to the NAIC's action, NAIFA and other life insurance industry trade associations (AALU, ACLI, & NAILBA) joined forces in a historic coalition of life industry organizations to collaborate on several coalition statements to the NAIC. This first-of-its-kind coalition resulted in the NAIC adopting an amendment to the PLMA which in large part had been devised by NAIFA and jointly drafted by the coalition. The amendment provides that when compensation is received by the producer from both the customer for the placement of insurance and an insurer, the producer must receive the customer's documented acknowledgement that compensation will be received from the insurer and must disclose the amount of such compensation to the customer.

Such disclosures, however, will not be necessary if the producer does not receive a fee from the customer for the placement of insurance and discloses to the customer that he/she is acting on behalf of the insurer and may provide services to the customer on behalf of the insurer. NAIFA and its coalition partners fully support the NAIC's amendments to the PLMA.

Recent State Legislative Activity

As of late 2007 only a handful of states have considered legislation dealing with commission disclosure since late 2004 when all the above NAIC and NAIFA activity took place. There recently has been activity in at least one state which deals with commission disclosure. The purpose of this article is to alert state associations that although there has been limited legislative activity on this issue over the last several years, this legislation could be considered in your state. If it does, please call Ron Panneton at the below contact information.

- Read the NAIC's amendment to the Producer Licensing Model Act at www.naifa.org/advocacy/documents/naic_broker_act12292004.pdf

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March NAIFA GovPod Explains Federal Proposal to Create Agent Licensing Clearinghouse

Listen to NAIFA expert outside counsel Scott Sinder and John Fielding with the firm Steptoe & Johnson discuss draft federal legislation to create a new producer licensure clearinghouse

called the National Association of Registered Agents and Brokers. Dubbed “NARAB II,” the proposal is set to be introduced in Congress this spring and would allow NAIFA members who operate in multiple states to apply for membership and be subject to a single set of licensing and continuing education requirements.

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To read more information on the NARAB II proposal, see this month's GovTalk article “U.S. House Prepares to Introduce Legislation to Streamline Agent Licensing.”

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“Did you know?”

Did you know that total federal tax incentives promoting individual, family and business financial security will amount to **\$2.4 trillion** over five years--with life insurance industry products (life, health, LTC, and DI insurance plus annuities, retirement, pension and investment products) benefiting from as much as **\$1.5 trillion** of those tax advantages?