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- U.S. Rep. Kanjorski Introduces Legislation to Create Federal Office of Insurance Information
- HSAs Sit Upon the Three-Legged Stool
- NAIC Panel Approves Bulletins Aimed at Regulating the Use of Designations
- House Subcommittee Holds Hearing Exploring All Sides of Insurance Regulatory Reform
- NAIFA Day on the Hill Proves Timing is Everything
- May NAIFA GovPod Discusses 2009 Tax Reform and the Coming “Perfect Storm”
- Did You Know?

U.S. Rep. Kanjorski Introduces Legislation to Create Federal Office of Insurance Information

Rep. Paul Kanjorski (D – PA), Chairman of the House Financial Services Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises, introduced a bill on April 17 that would create a federal office of insurance oversight to serve as an advisor to the Administration and to Congress on both domestic and international insurance matters. This office would gather, analyze, and disseminate publicly-available information on all lines of insurance except for health insurance. H.R. 5840—known as the Insurance Information Act of 2008—would establish the Office of Insurance Information (OII) within the Department of Treasury, and would be headed by a Deputy Assistant Secretary, appointed by the Treasury Secretary.

The bill is now pending in the House Financial Services Committee, and has four original co-sponsors in Rep. Deborah Pryce (R – OH), Rep. Ed Royce (R – CA), Rep. Melissa Bean (D – IL), and Rep. Dennis Moore (D- KS).

Kanjorski’s bill calls for the OII to advise the Treasury Secretary on insurance matters that are national in scope. It would also be responsible for establishing federal policy on international insurance matters and ensuring State laws are consistent with those policies, including international trade matters. The OII would submit written reports to the House Financial Services Committee and the Senate Banking Committee every two years (once per Congress) updating these committees on the financial state of the insurance industry, significant trends, and any other relevant information.

Chairman Kanjorski’s bill also establishes an Advisory Group to make recommendations to the Treasury Secretary and the Deputy Assistant secretary regarding the functions of the OII, including issues relating to the preemption of state regulations. The Advisory Group would consist of no more than nine members, including representatives from the National Association

of Insurance Commissioners (NAIC), the Department of Commerce, the office of the United States Trade Representative (USTR), consumer groups and insurance industry representatives. These members would be appointed by the Treasury Secretary.

It is important to note that this legislation does not create a federal regulator of insurance. Rep. Kanjorski views the bill as a first step towards improving the state of insurance regulation, saying that, "Regardless of whether or not the federal government directly regulates insurance, we must educate ourselves on insurance policy and build a knowledge base in the federal government on these matters." H.R. 5840 builds on the recommendations in the Treasury Department's Blueprint for a Modernized Financial Regulatory Structure, which calls for the establishment of an Office of Insurance Oversight as an interim step toward the creation of an optional federal charter for insurance.

NAIFA's Position: The NAIFA Board has not yet taken a formal position on H.R.5840; however, at its meeting on April 11, the NAIFA Board of Trustees voted to recommend its conditional support for the concept of the optional federal charter for insurance while continuing to support state-based regulation of insurance.

The recommendation now goes to NAIFA's National Council for its consideration and approval during the upcoming NAIFA Annual Convention and Career Conference, September 6-10 in San Diego.

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HSAs Sit Upon the Three-Legged Stool

As NAIFA leaders packed their bags for the National Leadership Conference, a provision to require HSA substantiation began looking attractive to Members of Congress as an offset (the provision would raise \$308 million over 10 years) for The Taxpayer Assistance and Simplification Act of 2008 (H.R. 5719).

A GovWatch was sent as the details began to unfold. AHIA – NAIFA Health & Employee Benefits members were contacted for immediate input in the desired course of action. The lobbying team consulted with the House Ways & Means Committee prior to the committee's mark-up of the bill and as a result, Representative Paul Ryan (R-WI) offered an amendment to strike the HSA provision. The amendment unfortunately failed, along mostly party lines. The Committee did, however, approve an amendment to change the original proposal's effective date to distributions made after December 31, 2010 to give the Treasury Department and the private sector time to work out the difficulties of implementing a documentation and substantiation requirement. A targeted alert was sent to AHIA/NAIFA members in the districts of Ways & Means Committee Members that voted in favor of the amendment to remove the HSA language asking them to thank their Members of Congress for supporting our position.

Once it became clear that the modified provision would still be burdensome and costly for HSA/HDHP policyholders as well as raise HIPAA privacy issues, a GovAlert was issued to all NAIFA members urging them to contact their Members of Congress, and the agenda for the Day on the Hill—held in conjunction with the NLC—was immediately modified to include the HSA issue. Attendees received a full briefing on the situation and hit the Hill with our concerns.

Investors around the country were vocal and rapid in conveying our position via phone calls and letters to their Congressional representatives. This joint grassroots and lobbying activity—combined with the strength created by the Political Action Committee—has significantly dampened interest in the HSA substantiation provision as written. The company that brought “potential non-medical spending” to the Ways and Means Committee’s attention has even declared its opposition to the bill.

HSA “abuses” are still a concern for Members of Congress and the availability of another off-set (or revenue-raiser) is always attractive. Thus, we stepped up our efforts in the Senate to clearly explain our concerns with HSA documentation and substantiation as well as emphasize the affordable health care solution that HSAs provide. Key NAIFA contacts are reaching out to members of the Senate Leadership and Finance Committee. This targeted grassroots approach is made possible through the Advisors Political Involvement Campaign that identifies key individuals possessing a strong relationship with a given Member of Congress.

President Bush has vowed to veto any bill that would require substantiation for HSA purchases, which is excellent news for us this year. However, the concept needs to be defeated before the political landscape changes in 2009.

The three-legged stool – grassroots, lobbying, and the PAC – is essential to the success of our legislative efforts. You can help by:

- Responding to GovAlerts
- Augmenting the professional lobbying by developing a strong relationship with your Member of Congress through regular district visits and offering your expertise in insurance-related matters
- Contributing to the PAC

The HSA substantiation is only one of the many insurance issues that rest upon the three-legged stool. Thanks for your continued support.

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NAIC Panel Approves Bulletins Aimed at Regulating the Use of Designations

On an April 22 conference call meeting, a key committee of the National Association of Insurance Commissioners (NAIC) voted to endorse two bulletins that seek to curb the use of misleading senior-specific designations. The Life Insurance and Annuities (A) Committee approved a “Senior Citizens Beware” consumer alert and an “Insurer and Producer Bulletin”. These documents will now be placed on the plenary agenda for potential final adoption at the upcoming NAIC summer meeting.

The first document approved by the A Committee, entitled “Senior Citizens Beware,” warns senior citizens to question the credentials of anyone who purports to be an expert in the senior market, and to require authenticity and verification of any designation that agents may claim to hold. It also advises seniors to be skeptical of attending so-called “free-lunch seminars,” at which attendees are offered a free meal while listening to a sales pitch, often for variable life insurance or annuity products.

The second document, the “Insurer and Producer Bulletin,” is meant to be distributed to both insurers and producers to serve as an advisory notice that the use of certain designations in marketing and sales practices could be considered improper, and that use of these designations could lead to the enforcement of certain penalties. The bulletin outlines some of the conditions under which this could be possible.

NAIFA had submitted several comment letters to the NAIC as the documents made their way through the drafting process, and the final versions reflect many of the suggestions made by NAIFA.

NAIFA’s Position: NAIFA strongly condemns all sales practices that are misleading to consumers, including the use of designations in a manner that implies the existence of a level of expertise in senior financial matters that does not exist. NAIFA supports the enactment of legislation in the states to protect seniors from the misleading use of designations. To find out more about NAIFA’s position, and to find more helpful materials including the documents mentioned above, please visit the “Regulating the Use of Designations” section of our advocacy website at www.naifa.org/advocacy/designations.

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House Subcommittee Holds Hearing Exploring All Sides of Insurance Regulatory Reform

The U.S. House Financial Services Subcommittee on Capital Markets, Insurance, and Government-Sponsored Enterprises held a hearing on April 16 entitled “Examining Proposals on Insurance Regulatory Reform,” which explored potential options for reforming and improving the state of the insurance regulation. The April 16 hearing was the third in a series looking at this topic. Prior hearings had focused on the need for regulatory reform, whereas the latest hearing focused on specific options for reform.

The Subcommittee heard from two separate panels of witnesses. The first panel explored insurance from a regulator standpoint, featuring a representative from the National Association of Insurance Commissioners (NAIC) and a representative from the Department of Treasury. The second panel consisted of five industry representatives discussing various facets of insurance regulation.

The Kanjorski Proposal:

Subcommittee Chairman Paul Kanjorski (D – PA) began the hearing by stating that he believed Congress needed to take some action on insurance regulation, and whether or not the federal government directly regulated insurance, it was vitally important that Congress educate itself on matters relating to the insurance industry. With that, Kanjorski announced that he would be introducing legislation to create an Office of Insurance Information within the Department of Treasury to serve not as a federal regulator of insurance, but rather as an advisor to the Administration and to Congress on both domestic and international insurance matters. The bill—which has since been introduced as the Insurance Information Act of 2008—closely follows the proposals outlined in the Treasury Department’s Blueprint for a Modernized Financial Regulatory Structure, which calls for the establishment of an Office of Insurance Oversight as

an interim step toward the creation of an optional federal charter for insurance. To learn more about H.R. 5840, please read the article on this topic in this issue of GovTalk.

The Regulators' Perspectives

The first witness was Treasury Assistant Secretary David G. Nason. Nason's testimony focused on the recently-released Treasury Department Blueprint for a Modernized Financial Regulatory Structure, in which Treasury recommends the creation of an optional federal charter (OFC), and the formation of a federal office of insurance oversight to work in conjunction with the present state-based system. According to Nason, "In Treasury's view, the establishment of a dual federal/state system with an OFC provides the best opportunity for the establishment of a modern and comprehensive system of insurance regulation." In the opinion of the Treasury Department, an OFC would help improve product innovation, reduce regulatory costs, and enhance competition, not only domestically but also in the global marketplace, an area in which it believes the U.S. insurance industry is suffering.

Discussing insurance regulation from a state perspective was New York Superintendent of Insurance, Eric Dinallo, testifying on behalf of the NAIC. Dinallo acknowledged that the current state-based system was not perfect, and that steps needed to be taken to make improvements, but explained that the NAIC does not believe that an optional federal charter is the way to achieve this goal. He stated that, "Optional regulatory regimes lead to regulatory arbitrage and gaps in oversight. They are not good for anyone, least of all consumers." Superintendent Dinallo noted that there are certain aspects of insurance regulation which could benefit from federal assistance (such as producer licensing) but for the most part, "The necessary changes and reforms can be made within the current structure or by adding to it." Dinallo went on to list areas of insurance regulation where state regulators have either remained strong, or have made great strides towards improvement, including strong consumer protection, maintenance of solvency, and improved speed-to-market conditions. Superintendent Dinallo concluded his testimony by asking the Subcommittee members for their help "...maintaining a system of oversight that is good for the companies and good for consumers."

The Industry Perspectives:

The first industry witness was Lawrence Mirel, testifying on behalf of the Self-Insurance Institute of America. Mirel discussed his organization's support for the recently introduced "Increasing Insurance Coverage Options for Consumers Act of 2008," which seeks to strengthen and modernize the Liability Retention Act of 1986 by expanding the coverage of risk-retention groups.

Next to testify was Alastair Shore, speaking on behalf of the CUNA Mutual Group, the American Insurance Association (AIA), and the American Council of Life Insurers (ACLI). Mr. Shore spoke in favor of the National Insurance Act of 2007 (H.R. 3200), a bill which would create an optional federal charter for insurance regulation. Mr. Shore called H.R. 3200 "...a strong consumer protection bill, which focuses on a robust centralized system that emphasizes safety, soundness and consistent market conduct regulation," and added that the bill would, "address the increasing cost and efficiency burdens that our disjointed state insurance regulatory system imposes on insurers and consumers alike."

Third to testify, representing The Independent Insurance Agents & Brokers of America (The Big "I") was Tom Minkler, who expressed the Big I's support of H.R. 5611—The National Association of Registered Agents & Brokers (NARAB) Reform Act. Minkler said the bill was the

best means of streamlining nonresident insurance agent licensing without interfering with state regulatory regimes. Mr. Minkler emphasized the importance of incremental legislation like NARAB II that would improve upon, and not replace, state regulation.

Next to testify was Frances Arricale, Executive Director of the Interstate Insurance Product Regulation Commission (IIPRC). Ms. Arricale discussed the Interstate Insurance Compact, and the progress it has made in the last few years. She said that, through enactment of the Compact in 31 jurisdictions, speed-to-market conditions for insurance products have greatly improved, and to date, 39 Uniform Standards have been adopted. Ms. Arricale said that, "The Compact represents a successful state-based modernization reform initiative that benefits consumers, industry, and insurance regulators."

The final person to testify at the hearing was Donna Pile, representing the National Association of Professional Insurance Agents (PIA), who discussed the importance of the National Insurance Producer Registry (NIPR). Ms. Pile stated that, "through NIPR's non-resident licensing service, producers and insurers can apply for a non-resident license in 45 jurisdictions and receive confirmation within a few business days." Ms. Pile went on to say that, when discussing uniform licensing standards, a system was already in place, and almost fully-functional, "so there is no need to build it again from scratch," and that progress will continue to be made until all jurisdictions are participating in NIPR.

What's Next?:

Chairman Kanjorski announced that his Subcommittee will hold future hearings on the issue of insurance regulatory reform. NAIFA staff will continue to keep you informed of these hearings.

For more information on NAIFA's position on insurance regulatory reform and modernization, please visit the IRR section of our website at

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NAIFA Day on the Hill Proves Timing is Everything

After a hearty breakfast and a legislative issue recap by the Law & Government Relations staff, NAIFA Presidents-Elect, incoming Membership Chairs and Association Executives departed for Capitol Hill on Tuesday, April 15 for another successful day of constituent lobbying. The timing couldn't have been better for delivering the NAIFA and AHIA message of opposition to the HSA provision in the Taxpayer Assistance and Simplification Act (H.R. 5719). The provision would impose documentation and substantiation requirements on tax-free payments of medical expenses from Health Savings Accounts. A *GovAlert* was sent to NAIFA members just before the Day on the Hill so congressional staff were receiving grassroots communications from NAIFA members while the incoming state leadership was meeting with the same staff. It was truly a thing a beauty, and a well-coordinated demonstration of the value of NAIFA's approach to advocacy. To learn more about this issue, please see the article in this issue of GovTalk.

Participants Give Great Feedback on their Experience:

On their *Report on Legislative Visits* (debriefing) forms, several Day on the Hill participants took a moment to comment on the program:

“Thank you for a tremendous couple of days, you guys rock!”

“Great experience for me.”

“My President-Elect and Membership Chair were impressed with their opportunity to meet our members of Congress and represent their fellow members on important issues.

The preparation of the leadership for their legislative visits is excellent. The law department is stellar and they do a wonderful job of coaching and encouraging our leaders.”

“I truly feel it was a very productive day and so did our local and state leaders. I feel everyone came out of the meetings feeling very positive.”

In answer to the question “Was there a highlight to your congressional visit?” responses such as these were typical:

“We are here, advocating for our customers.”

“Was to talk to [Congresswoman] Cubin prior to vote that day re: HSA issue.”

“Just a very pleasant visit.”

“Visit w/Congresswoman & picture.”

“Seeing [Congresswoman] Stephanie [Herseth].”

“Simply the experience.”

“Meeting [Congressman] Peter Sessions.”

“Lunch at the Senate dining room.”

“Meeting Rep. in person.”

“[The congressional aide] is just super to visit with – this is the 6th time and it’s like old home week.”

NAIFA’s Advisors Political Involvement team encourages members to visit the district offices of their Members of Congress. Issue papers can be downloaded at <http://www.naifa.org/advocacy/federal.cfm>.

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May NAIFA GovPod Discusses 2009 Tax Reform and the Coming “Perfect Storm”

Some observers see ominous signs on the horizon, as 2009 tax reform efforts in Congress could create a “perfect storm” threatening the tax-favored status of life insurance, annuities and other financial products crucial to the business interests of NAIFA members.

In NAIFA’s May GovPod, Michael Kerley, NAIFA senior vice president of federal government relations, and Dani Kehoe, of counsel to NAIFA, explain the danger and why reform efforts in the coming year may pose a greater threat than ever before. The good news is that NAIFA members have time act and head off the most destructive elements of the tax reform proposals. Kerley and Kehoe outline what you can do now to protect your business next year.

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- Save the file to your computer and listen to it later using Windows Media Player or iTunes. Right click on the "Download the audio file" link and select "Save File As" to save it to your computer.
- Download the file to a portable media player such as an iPod.

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Did You Know?

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