



A Newsletter from Chicago Underwriting Group, Inc.
Underwriters of D & O and Professional Liability Insurance

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In this issue... strong bipartisan support for a federal bill to simplify agent and broker licensing.

H.R. 1155: A BILL TO REFORM THE NATIONAL ASSOCIATION OF REGISTERED AGENTS AND BROKERS, AND FOR OTHER PURPOSES.

Background

The laborious state-by-state system of applying for and issuing nonresident insurance licenses was supposed to have been remedied by the Gramm-Leach-Bliley Act of 1999. But rather than imposing a new procedure by fiat, Gramm-Leach largely encouraged states to simplify matters among themselves. This did not work. Some advances were made, but full reciprocity between every state —you automatically allow our licensed resident producers into your state and we'll allow yours into ours— was not achieved. Gramm-Leach only permitted the National Association of Registered Agents and Brokers (NARAB) to form in the event that fewer than half of all U.S. States enacted uniformity and reciprocity legislation. As a majority of states did enact such legislation, NARAB was not formed.

Readers of this newsletter who hold multistate licenses, even if they do not procure the licenses themselves, probably recognize that the task remains burdensome and unwieldy.

House Bill H.R.1155, introduced by House Insurance Subcommittee Chairman Randy Neugebauer, R-Texas, and Rep. David Scott, D-Ga., aims to finally fix the problem by sweeping away the applicable sections of Gramm-Leach and substituting more affirmative provisions that remove reliance on state initiatives and take direct charge of the process. The resulting structure should be streamlined and effective. This is Chairman Neugebauer's third attempt to achieve his goal; previously thwarted more by procedural logjams in the Senate than by philosophical opposition, it may prove to be third-time lucky.

The Bill

[H.R.1155](#) would establish a nonprofit National Association of Registered Agents and Brokers (known as NARAB II, to distinguish it from the NARAB of Gramm-Leach), with the purpose of providing "a mechanism through which licensing, continuing education, and other non-resident insurance producer qualification requirements and conditions may be adopted and approved on a multistate basis without affecting the laws, rules, and regulations, and preserving the rights of a State"

Membership of the proposed association would generally be open to any insurance producer licensed in their home state, as long as their license was not suspended, revoked or terminated.

The association would be governed and supervised by a 13-person board of directors, appointed by the president. Board membership would be comprised of state regulators (8), property and casualty producers (2), life or health producers (1), property and casualty insurers (1), and life or health insurers (1). Professional employees would be hired to actually perform the work of the association.

The practical result would create one-stop shopping for producers and agencies seeking nonresident licenses: No more contacting individual states; simply apply to NARAB.

INDUSTRY REACTION

The bill passed in the House by an overwhelming 397-6 vote, and that bipartisan support is also reflected across the spectrum of insurance-industry participants. The reaction of the National Association of Insurance Commissioners (NAIC) was perhaps the most closely watched. Ever vigilant against attempts to encroach upon the rights of individual states to regulate insurance within their borders, the NAIC gave the measure its carefully worded backing in a [letter](#) to House leaders dated September 6, 2013. Such support is not unqualified, however, but rather is “contingent upon those provisions affecting state insurance regulation remaining unchanged.”

As much as the NAIC is concerned with states as retaining regulatory control, states also want to avoid losing money, and H.R. 1155 makes sure to emphasize that there will be “no loss of producer licensing revenue to the State.”

While the NAIC might be described as cautiously supportive, endorsements from other industry sectors have been more enthusiastic. The participants who stand to benefit most are the producers and their agency employers. The Independent Agents & Brokers of America Inc. (Big ‘I’) has no doubt about the bill’s value: “NARAB II is vitally important for tens of thousands of Big ‘I’ members who operate on a multi-state basis,” [declared](#) Robert A. Rusbuldt, the group’s president.

Mindful of how the Senate caused the two previous attempts to flounder, the Council of Insurance Agents and Brokers (CIAB) wrote to Senate leader Harry Reid urging his sponsorship and support. Referring to the proposed legislation as “common-sense” (and noting the endorsement of the NAIC), the CIAB [letter](#) was signed by ten separate insurance organizations representing brokers and insurers.

COMMENT

Strikingly absent from the text of H.R. 1155 —and from public commentary— has been any mention of the Federal Insurance Office (FIO) and its director. One might imagine that a federal measure that imposes a federal solution on a historically state-created problem could include a role, however small, for the federal director. Perhaps a seat could have been reserved for him on the NARAB Board, but the thirty-eight pages of H.R.1155 are silent on the FIO: The director’s presence is not required and his input is not sought.

This omission may have been designed to help secure the NAIC’s backing —readers may recall the guarded words and tight-lipped [reaction](#) of the NAIC to the creation of a FIO under Dodd-Frank.

But it may also be that they simply forgot, or maybe ignored the FIO intentionally. As of the time of writing, the FIO is now more than a year and a half late with its report on the modernization of the U.S. insurance industry. This tardiness by the FIO has been a source of irritation to Congress, whose members periodically [demand](#) the report be released. The delays and procrastination are gradually eroding the credibility and standing of the FIO and its director on Capitol Hill.

“Common-sense” though H.R.1155 may be, it is rare for an insurance initiative to receive virtually unanimous backing from all industry constituencies. If ever there were an issue that might inspire readers of this newsletter to contact their U.S. senator requesting the senator’s support, this might be the one: The corresponding Senate bill is S.534, introduced by Senator Jon Tester, D-Mont.

This legislation will not be a quick fix. Even if enacted, the measure will take at least 24 months to implement after it becomes law. But if NARAB II operates as planned, it will be a significant step forward for all insurance industry participants —and one fewer item to include in the FIO modernization report. ❖

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