

quirement that discriminates against a non-resident insurance licensee.

(Pub. L. 106-102, title III, §313, Nov. 12, 1999, 113 Stat. 1419.)

§ 6734. Other provisions

(a) Judicial review

The appropriate United States district court shall have exclusive jurisdiction over litigation arising under this section¹ involving any redomesticating or redomesticated insurer.

(b) Severability

If any provision of this section,¹ or the application thereof to any person or circumstances, is held invalid, the remainder of the section,¹ and the application of such provision to other persons or circumstances, shall not be affected thereby.

(Pub. L. 106-102, title III, §314, Nov. 12, 1999, 113 Stat. 1420.)

REFERENCES IN TEXT

This section, referred to in text, probably should be a reference to this subtitle, meaning subtitle B (§§311-316) of title III of Pub. L. 106-102, which is classified generally to this subchapter.

§ 6735. Definitions

For purposes of this subchapter, the following definitions shall apply:

(1) Court of competent jurisdiction

The term “court of competent jurisdiction” means a court authorized pursuant to section 6734(a) of this title to adjudicate litigation arising under this subchapter.

(2) Domicile

The term “domicile” means the State in which an insurer is incorporated, chartered, or organized.

(3) Insurance licensee

The term “insurance licensee” means any person holding a license under State law to act as insurance agent, subagent, broker, or consultant.

(4) Institution

The term “institution” means a corporation, joint stock company, limited liability company, limited liability partnership, association, trust, partnership, or any similar entity.

(5) Licensed State

The term “licensed State” means any State, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands in which the redomesticating insurer has a certificate of authority in effect immediately prior to the redomestication.

(6) Mutual insurer

The term “mutual insurer” means a mutual insurer organized under the laws of any State.

(7) Person

The term “person” means an individual, institution, government or governmental agen-

cy, State or political subdivision of a State, public corporation, board, association, estate, trustee, or fiduciary, or other similar entity.

(8) Policyholder

The term “policyholder” means the owner of a policy issued by a mutual insurer, except that, with respect to voting rights, the term means a member of a mutual insurer or mutual holding company granted the right to vote, as determined under applicable State law.

(9) Redomesticated insurer

The term “redomesticated insurer” means a mutual insurer that has redomesticated pursuant to this subchapter.

(10) Redomesticating insurer

The term “redomesticating insurer” means a mutual insurer that is redomesticating pursuant to this subchapter.

(11) Redomestication or transfer

The term “redomestication” or “transfer” means the transfer of the domicile of a mutual insurer from one State to another State pursuant to this subchapter.

(12) State insurance regulator

The term “State insurance regulator” means the principal insurance regulatory authority of a State, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

(13) State law

The term “State law” means the statutes of any State, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands and any regulation, order, or requirement prescribed pursuant to any such statute.

(14) Transferee domicile

The term “transferee domicile” means the State to which a mutual insurer is redomesticating pursuant to this subchapter.

(15) Transferor domicile

The term “transferor domicile” means the State from which a mutual insurer is redomesticating pursuant to this subchapter.

(Pub. L. 106-102, title III, §315, Nov. 12, 1999, 113 Stat. 1420.)

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SUBCHAPTER III—NATIONAL ASSOCIATION OF REGISTERED AGENTS AND BROKERS

§ 6751. State flexibility in multistate licensing reforms

(a) In general

The provisions of this subchapter shall take effect unless, not later than 3 years after No-

¹ See References in Text note below.

vember 12, 1999, at least a majority of the States—

(1) have enacted uniform laws and regulations governing the licensure of individuals and entities authorized to sell and solicit the purchase of insurance within the State; or

(2) have enacted reciprocity laws and regulations governing the licensure of nonresident individuals and entities authorized to sell and solicit insurance within those States.

(b) Uniformity required

States shall be deemed to have established the uniformity necessary to satisfy subsection (a)(1) of this section if the States—

(1) establish uniform criteria regarding the integrity, personal qualifications, education, training, and experience of licensed insurance producers, including the qualification and training of sales personnel in ascertaining the appropriateness of a particular insurance product for a prospective customer;

(2) establish uniform continuing education requirements for licensed insurance producers;

(3) establish uniform ethics course requirements for licensed insurance producers in conjunction with the continuing education requirements under paragraph (2);

(4) establish uniform criteria to ensure that an insurance product, including any annuity contract, sold to a consumer is suitable and appropriate for the consumer based on financial information disclosed by the consumer; and

(5) do not impose any requirement upon any insurance producer to be licensed or otherwise qualified to do business as a nonresident that has the effect of limiting or conditioning that producer's activities because of its residence or place of operations, except that countersignature requirements imposed on nonresident producers shall not be deemed to have the effect of limiting or conditioning a producer's activities because of its residence or place of operations under this section.

(c) Reciprocity required

States shall be deemed to have established the reciprocity required to satisfy subsection (a)(2) of this section if the following conditions are met:

(1) Administrative licensing procedures

At least a majority of the States permit a producer that has a resident license for selling or soliciting the purchase of insurance in its home State to receive a license to sell or solicit the purchase of insurance in such majority of States as a nonresident to the same extent that such producer is permitted to sell or solicit the purchase of insurance in its State, if the producer's home State also awards such licenses on such a reciprocal basis, without satisfying any additional requirements other than submitting—

(A) a request for licensure;

(B) the application for licensure that the producer submitted to its home State;

(C) proof that the producer is licensed and in good standing in its home State; and

(D) the payment of any requisite fee to the appropriate authority.

(2) Continuing education requirements

A majority of the States accept an insurance producer's satisfaction of its home State's continuing education requirements for licensed insurance producers to satisfy the States' own continuing education requirements if the producer's home State also recognizes the satisfaction of continuing education requirements on such a reciprocal basis.

(3) No limiting nonresident requirements

A majority of the States do not impose any requirement upon any insurance producer to be licensed or otherwise qualified to do business as a nonresident that has the effect of limiting or conditioning that producer's activities because of its residence or place of operations, except that countersignature requirements imposed on nonresident producers shall not be deemed to have the effect of limiting or conditioning a producer's activities because of its residence or place of operations under this section.

(4) Reciprocal reciprocity

Each of the States that satisfies paragraphs (1), (2), and (3) grants reciprocity to residents of all of the other States that satisfy such paragraphs.

(d) Determination

(1) NAIC determination

At the end of the 3-year period beginning on November 12, 1999, the National Association of Insurance Commissioners (hereafter in this subchapter referred to as the "NAIC") shall determine, in consultation with the insurance commissioners or chief insurance regulatory officials of the States, whether the uniformity or reciprocity required by subsections (b) and (c) of this section has been achieved.

(2) Judicial review

The appropriate United States district court shall have exclusive jurisdiction over any challenge to the NAIC's determination under this section and such court shall apply the standards set forth in section 706 of title 5 when reviewing any such challenge.

(e) Continued application

If, at any time, the uniformity or reciprocity required by subsections (b) and (c) of this section no longer exists, the provisions of this subchapter shall take effect 2 years after the date on which such uniformity or reciprocity ceases to exist, unless the uniformity or reciprocity required by those provisions is satisfied before the expiration of that 2-year period.

(f) Savings provision

No provision of this section shall be construed as requiring that any law, regulation, provision, or action of any State which purports to regulate insurance producers, including any such law, regulation, provision, or action which purports to regulate unfair trade practices or establish consumer protections, including countersignature laws, be altered or amended in order to satisfy the uniformity or reciprocity required by subsections (b) and (c) of this section, unless any such law, regulation, provision, or

action is inconsistent with a specific requirement of any such subsection and then only to the extent of such inconsistency.

(g) Uniform licensing

Nothing in this section shall be construed to require any State to adopt new or additional licensing requirements to achieve the uniformity necessary to satisfy subsection (a)(1) of this section.

(Pub. L. 106-102, title III, §321, Nov. 12, 1999, 113 Stat. 1422.)

§ 6752. National Association of Registered Agents and Brokers

(a) Establishment

There is established the National Association of Registered Agents and Brokers (hereafter in this subchapter referred to as the “Association”).

(b) Status

The Association shall—

- (1) be a nonprofit corporation;
- (2) have succession until dissolved by an Act of Congress;
- (3) not be an agent or instrumentality of the United States Government; and
- (4) except as otherwise provided in this Act, be subject to, and have all the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29y-1001 et seq.).

(Pub. L. 106-102, title III, §322, Nov. 12, 1999, 113 Stat. 1424.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b)(4), is Pub. L. 106-102, Nov. 12, 1999, 113 Stat. 1338, known as the Gramm-Leach-Bliley Act. For complete classification of this Act to the Code, see Short title of 1999 Amendment note set out under section 1811 of Title 12, Banks and Banking, and Tables.

The District of Columbia Nonprofit Corporation Act, referred to in subsec. (b)(4), is Pub. L. 87-569, Aug. 6, 1962, 76 Stat. 265, as amended, which is not classified to the Code.

§ 6753. Purpose

The purpose of the Association shall be to provide a mechanism through which uniform licensing, appointment, continuing education, and other insurance producer sales qualification requirements and conditions can be adopted and applied on a multistate basis, while preserving the right of States to license, supervise, and discipline insurance producers and to prescribe and enforce laws and regulations with regard to insurance-related consumer protection and unfair trade practices.

(Pub. L. 106-102, title III, §323, Nov. 12, 1999, 113 Stat. 1424.)

§ 6754. Relationship to the Federal Government

The Association shall be subject to the supervision and oversight of the NAIC.

(Pub. L. 106-102, title III, §324, Nov. 12, 1999, 113 Stat. 1424.)

§ 6755. Membership

(a) Eligibility

(1) In general

Any State-licensed insurance producer shall be eligible to become a member in the Association.

(2) Ineligibility for suspension or revocation of license

Notwithstanding paragraph (1), a State-licensed insurance producer shall not be eligible to become a member if a State insurance regulator has suspended or revoked such producer's license in that State during the 3-year period preceding the date on which such producer applies for membership.

(3) Resumption of eligibility

Paragraph (2) shall cease to apply to any insurance producer if—

- (A) the State insurance regulator renews the license of such producer in the State in which the license was suspended or revoked; or
- (B) the suspension or revocation is subsequently overturned.

(b) Authority to establish membership criteria

The Association shall have the authority to establish membership criteria that—

- (1) bear a reasonable relationship to the purposes for which the Association was established; and
- (2) do not unfairly limit the access of smaller agencies to the Association membership.

(c) Establishment of classes and categories

(1) Classes of membership

The Association may establish separate classes of membership, with separate criteria, if the Association reasonably determines that performance of different duties requires different levels of education, training, or experience.

(2) Categories

The Association may establish separate categories of membership for individuals and for other persons. The establishment of any such categories of membership shall be based either on the types of licensing categories that exist under State laws or on the aggregate amount of business handled by an insurance producer. No special categories of membership, and no distinct membership criteria, shall be established for members which are depository institutions or for their employees, agents, or affiliates.

(d) Membership criteria

(1) In general

The Association may establish criteria for membership which shall include standards for integrity, personal qualifications, education, training, and experience.

(2) Minimum standard

In establishing criteria under paragraph (1), the Association shall consider the highest levels of insurance producer qualifications established under the licensing laws of the States.

(e) Effect of membership

Membership in the Association shall entitle the member to licensure in each State for which the member pays the requisite fees, including licensing fees and, where applicable, bonding requirements, set by such State.

(f) Annual renewal

Membership in the Association shall be renewed on an annual basis.

(g) Continuing education

The Association shall establish, as a condition of membership, continuing education requirements which shall be comparable to or greater than the continuing education requirements under the licensing laws of a majority of the States.

(h) Suspension and revocation

The Association may—

(1) inspect and examine the records and offices of the members of the Association to determine compliance with the criteria for membership established by the Association; and

(2) suspend or revoke the membership of an insurance producer if—

(A) the producer fails to meet the applicable membership criteria of the Association; or

(B) the producer has been subject to disciplinary action pursuant to a final adjudicatory proceeding under the jurisdiction of a State insurance regulator, and the Association concludes that retention of membership in the Association would not be in the public interest.

(i) Office of consumer complaints**(1) In general**

The Association shall establish an office of consumer complaints that shall—

(A) receive and investigate complaints from both consumers and State insurance regulators related to members of the Association; and

(B) recommend to the Association any disciplinary actions that the office considers appropriate, to the extent that any such recommendation is not inconsistent with State law.

(2) Records and referrals

The office of consumer complaints of the Association shall—

(A) maintain records of all complaints received in accordance with paragraph (1) and make such records available to the NAIC and to each State insurance regulator for the State of residence of the consumer who filed the complaint; and

(B) refer, when appropriate, any such complaint to any appropriate State insurance regulator.

(3) Telephone and other access

The office of consumer complaints shall maintain a toll-free telephone number for the purpose of this subsection and, as practicable, other alternative means of communication with consumers, such as an Internet home page.

(Pub. L. 106-102, title III, § 325, Nov. 12, 1999, 113 Stat. 1424.)

§ 6756. Board of directors**(a) Establishment**

There is established the board of directors of the Association (hereafter in this subchapter referred to as the “Board”) for the purpose of governing and supervising the activities of the Association and the members of the Association.

(b) Powers

The Board shall have such powers and authority as may be specified in the bylaws of the Association.

(c) Composition**(1) Members**

The Board shall be composed of 7 members appointed by the NAIC.

(2) Requirement

At least 4 of the members of the Board shall each have significant experience with the regulation of commercial lines of insurance in at least 1 of the 20 States in which the greatest total dollar amount of commercial-lines insurance is placed in the United States.

(3) Initial Board membership**(A) In general**

If, by the end of the 2-year period beginning on November 12, 1999, the NAIC has not appointed the initial 7 members of the Board of the Association, the initial Board shall consist of the 7 State insurance regulators of the 7 States with the greatest total dollar amount of commercial-lines insurance in place as of the end of such period.

(B) Alternate composition

If any of the State insurance regulators described in subparagraph (A) declines to serve on the Board, the State insurance regulator with the next greatest total dollar amount of commercial-lines insurance in place, as determined by the NAIC as of the end of such period, shall serve as a member of the Board.

(C) Inoperability

If fewer than 7 State insurance regulators accept appointment to the Board, the Association shall be established without NAIC oversight pursuant to section 6762 of this title.

(d) Terms

The term of each director shall, after the initial appointment of the members of the Board, be for 3 years, with one-third of the directors to be appointed each year.

(e) Board vacancies

A vacancy on the Board shall be filled in the same manner as the original appointment of the initial Board for the remainder of the term of the vacating member.

(f) Meetings

The Board shall meet at the call of the chairperson, or as otherwise provided by the bylaws of the Association.

(Pub. L. 106-102, title III, §326, Nov. 12, 1999, 113 Stat. 1426.)

§ 6757. Officers

(a) In general

(1) Positions

The officers of the Association shall consist of a chairperson and a vice chairperson of the Board, a president, secretary, and treasurer of the Association, and such other officers and assistant officers as may be deemed necessary.

(2) Manner of selection

Each officer of the Board and the Association shall be elected or appointed at such time and in such manner and for such terms not exceeding 3 years as may be prescribed in the by-laws of the Association.

(b) Criteria for chairperson

Only individuals who are members of the NAIC shall be eligible to serve as the chairperson of the board of directors.

(Pub. L. 106-102, title III, §327, Nov. 12, 1999, 113 Stat. 1427.)

§ 6758. Bylaws, rules, and disciplinary action

(a) Adoption and amendment of bylaws

(1) Copy required to be filed with the NAIC

The board of directors of the Association shall file with the NAIC a copy of the proposed bylaws or any proposed amendment to the bylaws, accompanied by a concise general statement of the basis and purpose of such proposal.

(2) Effective date

Except as provided in paragraph (3), any proposed bylaw or proposed amendment shall take effect—

(A) 30 days after the date of the filing of a copy with the NAIC;

(B) upon such later date as the Association may designate; or

(C) upon such earlier date as the NAIC may determine.

(3) Disapproval by the NAIC

Notwithstanding paragraph (2), a proposed bylaw or amendment shall not take effect if, after public notice and opportunity to participate in a public hearing—

(A) the NAIC disapproves such proposal as being contrary to the public interest or contrary to the purposes of this subchapter and provides notice to the Association setting forth the reasons for such disapproval; or

(B) the NAIC finds that such proposal involves a matter of such significant public interest that public comment should be obtained, in which case it may, after notifying the Association in writing of such finding, require that the procedures set forth in subsection (b) of this section be followed with respect to such proposal, in the same manner as if such proposed bylaw change were a proposed rule change within the meaning of such subsection.

(b) Adoption and amendment of rules

(1) Filing proposed regulations with the NAIC

(A) In general

The board of directors of the Association shall file with the NAIC a copy of any proposed rule or any proposed amendment to a rule of the Association which shall be accompanied by a concise general statement of the basis and purpose of such proposal.

(B) Other rules and amendments ineffective

No proposed rule or amendment shall take effect unless approved by the NAIC or otherwise permitted in accordance with this paragraph.

(2) Initial consideration by the NAIC

Not later than 35 days after the date of publication of notice of filing of a proposal, or before the end of such longer period not to exceed 90 days as the NAIC may designate after such date, if the NAIC finds such longer period to be appropriate and sets forth its reasons for so finding, or as to which the Association consents, the NAIC shall—

(A) by order approve such proposed rule or amendment; or

(B) institute proceedings to determine whether such proposed rule or amendment should be modified or disapproved.

(3) NAIC proceedings

(A) In general

Proceedings instituted by the NAIC with respect to a proposed rule or amendment pursuant to paragraph (2) shall—

(i) include notice of the grounds for disapproval under consideration;

(ii) provide opportunity for hearing; and

(iii) be concluded not later than 180 days after the date of the Association's filing of such proposed rule or amendment.

(B) Disposition of proposal

At the conclusion of any proceeding under subparagraph (A), the NAIC shall, by order, approve or disapprove the proposed rule or amendment.

(C) Extension of time for consideration

The NAIC may extend the time for concluding any proceeding under subparagraph (A) for—

(i) not more than 60 days if the NAIC finds good cause for such extension and sets forth its reasons for so finding; or

(ii) such longer period as to which the Association consents.

(4) Standards for review

(A) Grounds for approval

The NAIC shall approve a proposed rule or amendment if the NAIC finds that the rule or amendment is in the public interest and is consistent with the purposes of this Act.

(B) Approval before end of notice period

The NAIC shall not approve any proposed rule before the end of the 30-day period beginning on the date on which the Association files proposed rules or amendments in accordance with paragraph (1), unless the

NAIC finds good cause for so doing and sets forth the reasons for so finding.

(5) Alternate procedure

(A) In general

Notwithstanding any provision of this subsection other than subparagraph (B), a proposed rule or amendment relating to the administration or organization of the Association shall take effect—

(i) upon the date of filing with the NAIC, if such proposed rule or amendment is designated by the Association as relating solely to matters which the NAIC, consistent with the public interest and the purposes of this subsection, determines by rule do not require the procedures set forth in this paragraph; or

(ii) upon such date as the NAIC shall for good cause determine.

(B) Abrogation by the NAIC

(i) In general

At any time within 60 days after the date of filing of any proposed rule or amendment under subparagraph (A)(i) or clause (ii) of this subparagraph, the NAIC may repeal such rule or amendment and require that the rule or amendment be refiled and reviewed in accordance with this paragraph, if the NAIC finds that such action is necessary or appropriate in the public interest, for the protection of insurance producers or policyholders, or otherwise in furtherance of the purposes of this subchapter.

(ii) Effect of reconsideration by the NAIC

Any action of the NAIC pursuant to clause (i) shall—

(I) not affect the validity or force of a rule change during the period such rule or amendment was in effect; and

(II) not be considered to be a final action.

(c) Action required by the NAIC

The NAIC may, in accordance with such rules as the NAIC determines to be necessary or appropriate to the public interest or to carry out the purposes of this subchapter, require the Association to adopt, amend, or repeal any bylaw, rule, or amendment of the Association, whenever adopted.

(d) Disciplinary action by the Association

(1) Specification of charges

In any proceeding to determine whether membership shall be denied, suspended, revoked, or not renewed (hereafter in this section referred to as a “disciplinary action”), the Association shall bring specific charges, notify such member of such charges, give the member an opportunity to defend against the charges, and keep a record.

(2) Supporting statement

A determination to take disciplinary action shall be supported by a statement setting forth—

(A) any act or practice in which such member has been found to have been engaged;

(B) the specific provision of this subchapter, the rules or regulations under this subchapter, or the rules of the Association which any such act or practice is deemed to violate; and

(C) the sanction imposed and the reason for such sanction.

(e) NAIC review of disciplinary action

(1) Notice to the NAIC

If the Association orders any disciplinary action, the Association shall promptly notify the NAIC of such action.

(2) Review by the NAIC

Any disciplinary action taken by the Association shall be subject to review by the NAIC—

(A) on the NAIC’s own motion; or

(B) upon application by any person aggrieved by such action if such application is filed with the NAIC not more than 30 days after the later of—

(i) the date the notice was filed with the NAIC pursuant to paragraph (1); or

(ii) the date the notice of the disciplinary action was received by such aggrieved person.

(f) Effect of review

The filing of an application to the NAIC for review of a disciplinary action, or the institution of review by the NAIC on the NAIC’s own motion, shall not operate as a stay of disciplinary action unless the NAIC otherwise orders.

(g) Scope of review

(1) In general

In any proceeding to review such action, after notice and the opportunity for hearing, the NAIC shall—

(A) determine whether the action should be taken;

(B) affirm, modify, or rescind the disciplinary sanction; or

(C) remand to the Association for further proceedings.

(2) Dismissal of review

The NAIC may dismiss a proceeding to review disciplinary action if the NAIC finds that—

(A) the specific grounds on which the action is based exist in fact;

(B) the action is in accordance with applicable rules and regulations; and

(C) such rules and regulations are, and were, applied in a manner consistent with the purposes of this subchapter.

(Pub. L. 106–102, title III, § 328, Nov. 12, 1999, 113 Stat. 1427.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b)(4)(A), is Pub. L. 106–102, Nov. 12, 1999, 113 Stat. 1338, known as the Gramm-Leach-Bliley Act. For complete classification of this Act to the Code, see Short Title of 1999 Amendment note set out under section 1811 of Title 12, Banks and Banking, and Tables.

§ 6759. Assessments

(a) Insurance producers subject to assessment

The Association may establish such application and membership fees as the Association

finds necessary to cover the costs of its operations, including fees made reimbursable to the NAIC under subsection (b) of this section, except that, in setting such fees, the Association may not discriminate against smaller insurance producers.

(b) NAIC assessments

The NAIC may assess the Association for any costs that the NAIC incurs under this subchapter.

(Pub. L. 106–102, title III, § 329, Nov. 12, 1999, 113 Stat. 1430.)

§ 6760. Functions of the NAIC

(a) Administrative procedure

Determinations of the NAIC, for purposes of making rules pursuant to section 6758 of this title, shall be made after appropriate notice and opportunity for a hearing and for submission of views of interested persons.

(b) Examinations and reports

(1) Examinations

The NAIC may make such examinations and inspections of the Association and require the Association to furnish to the NAIC such reports and records or copies thereof as the NAIC may consider necessary or appropriate in the public interest or to effectuate the purposes of this subchapter.

(2) Report by Association

As soon as practicable after the close of each fiscal year, the Association shall submit to the NAIC a written report regarding the conduct of its business, and the exercise of the other rights and powers granted by this subchapter, during such fiscal year. Such report shall include financial statements setting forth the financial position of the Association at the end of such fiscal year and the results of its operations (including the source and application of its funds) for such fiscal year. The NAIC shall transmit such report to the President and the Congress with such comment thereon as the NAIC determines to be appropriate.

(Pub. L. 106–102, title III, § 330, Nov. 12, 1999, 113 Stat. 1430.)

§ 6761. Liability of the Association and the directors, officers, and employees of the Association

(a) In general

The Association shall not be deemed to be an insurer or insurance producer within the meaning of any State law, rule, regulation, or order regulating or taxing insurers, insurance producers, or other entities engaged in the business of insurance, including provisions imposing premium taxes, regulating insurer solvency or financial condition, establishing guaranty funds and levying assessments, or requiring claims settlement practices.

(b) Liability of the Association, its directors, officers, and employees

Neither the Association nor any of its directors, officers, or employees shall have any liability

to any person for any action taken or omitted in good faith under or in connection with any matter subject to this subchapter.

(Pub. L. 106–102, title III, § 331, Nov. 12, 1999, 113 Stat. 1430.)

§ 6762. Elimination of NAIC oversight

(a) In general

The Association shall be established without NAIC oversight and the provisions set forth in section 6754 of this title, subsections (a), (b), (c), and (e) of section 6758 of this title, and sections 6759(b) and 6760 of this title shall cease to be effective if, at the end of the 2-year period beginning on the date on which the provisions of this subchapter take effect pursuant to section 6751 of this title—

(1) at least a majority of the States representing at least 50 percent of the total United States commercial-lines insurance premiums have not satisfied the uniformity or reciprocity requirements of subsections (a), (b), and (c) of section 6751 of this title; and

(2) the NAIC has not approved the Association's bylaws as required by section 6758 of this title or is unable to operate or supervise the Association, or the Association is not conducting its activities as required under this Act.

(b) Board appointments

If the repeals required by subsection (a) of this section are implemented, the following shall apply:

(1) General appointment power

The President, with the advice and consent of the Senate, shall appoint the members of the Association's Board established under section 6756 of this title from lists of candidates recommended to the President by the NAIC.

(2) Procedures for obtaining NAIC appointment recommendations

(A) Initial determination and recommendations

After the date on which the provisions of subsection (a) of this section take effect, the NAIC shall, not later than 60 days thereafter, provide a list of recommended candidates to the President. If the NAIC fails to provide a list by that date, or if any list that is provided does not include at least 14 recommended candidates or comply with the requirements of section 6756(c) of this title, the President shall, with the advice and consent of the Senate, make the requisite appointments without considering the views of the NAIC.

(B) Subsequent appointments

After the initial appointments, the NAIC shall provide a list of at least six recommended candidates for the Board to the President by January 15 of each subsequent year. If the NAIC fails to provide a list by that date, or if any list that is provided does not include at least six recommended candidates or comply with the requirements of section 6756(c) of this title, the President, with the advice and consent of the Senate,

shall make the requisite appointments without considering the views of the NAIC.

(C) Presidential oversight

(i) Removal

If the President determines that the Association is not acting in the interests of the public, the President may remove the entire existing Board for the remainder of the term to which the members of the Board were appointed and appoint, with the advice and consent of the Senate, new members to fill the vacancies on the Board for the remainder of such terms.

(ii) Suspension of rules or actions

The President, or a person designated by the President for such purpose, may suspend the effectiveness of any rule, or prohibit any action, of the Association which the President or the designee determines is contrary to the public interest.

(c) Annual report

As soon as practicable after the close of each fiscal year, the Association shall submit to the President and to the Congress a written report relative to the conduct of its business, and the exercise of the other rights and powers granted by this subchapter, during such fiscal year. Such report shall include financial statements setting forth the financial position of the Association at the end of such fiscal year and the results of its operations (including the source and application of its funds) for such fiscal year.

(Pub. L. 106–102, title III, §332, Nov. 12, 1999, 113 Stat. 1431.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(2), is Pub. L. 106–102, Nov. 12, 1999, 113 Stat. 1338, known as the Gramm-Leach-Bliley Act. For complete classification of this Act to the Code, see Short Title of 1999 Amendment note set out under section 1811 of Title 12, Banks and Banking, and Tables.

§ 6763. Relationship to State law

(a) Preemption of State laws

State laws, regulations, provisions, or other actions purporting to regulate insurance producers shall be preempted as provided in subsection (b) of this section.

(b) Prohibited actions

No State shall—

(1) impede the activities of, take any action against, or apply any provision of law or regulation to, any insurance producer because that insurance producer or any affiliate plans to become, has applied to become, or is a member of the Association;

(2) impose any requirement upon a member of the Association that it pay different fees to be licensed or otherwise qualified to do business in that State, including bonding requirements, based on its residency;

(3) impose any licensing, appointment, integrity, personal or corporate qualifications, education, training, experience, residency, or continuing education requirement upon a member of the Association that is different from the criteria for membership in the Asso-

ciation or renewal of such membership, except that countersignature requirements imposed on nonresident producers shall not be deemed to have the effect of limiting or conditioning a producer's activities because of its residence or place of operations under this section; or

(4) implement the procedures of such State's system of licensing or renewing the licenses of insurance producers in a manner different from the authority of the Association under section 6755 of this title.

(c) Savings provision

Except as provided in subsections (a) and (b) of this section, no provision of this section shall be construed as altering or affecting the continuing effectiveness of any law, regulation, provision, or other action of any State which purports to regulate insurance producers, including any such law, regulation, provision, or action which purports to regulate unfair trade practices or establish consumer protections, including countersignature laws.

(Pub. L. 106–102, title III, §333, Nov. 12, 1999, 113 Stat. 1432.)

§ 6764. Coordination with other regulators

(a) Coordination with State insurance regulators

The Association shall have the authority to—

(1) issue uniform insurance producer applications and renewal applications that may be used to apply for the issuance or removal of State licenses, while preserving the ability of each State to impose such conditions on the issuance or renewal of a license as are consistent with section 6763 of this title;

(2) establish a central clearinghouse through which members of the Association may apply for the issuance or renewal of licenses in multiple States; and

(3) establish or utilize a national database for the collection of regulatory information concerning the activities of insurance producers.

(b) Coordination with the National Association of Securities Dealers

The Association shall coordinate with the National Association of Securities Dealers in order to ease any administrative burdens that fall on persons that are members of both associations, consistent with the purposes of this subchapter and the Federal securities laws.

(Pub. L. 106–102, title III, §334, Nov. 12, 1999, 113 Stat. 1433.)

§ 6765. Judicial review

(a) Jurisdiction

The appropriate United States district court shall have exclusive jurisdiction over litigation involving the Association, including disputes between the Association and its members that arise under this subchapter. Suits brought in State court involving the Association shall be deemed to have arisen under Federal law and therefore be subject to jurisdiction in the appropriate United States district court.

(b) Exhaustion of remedies

An aggrieved person shall be required to exhaust all available administrative remedies be-

fore the Association and the NAIC before it may seek judicial review of an Association decision.

(c) Standards of review

The standards set forth in section 553 of title 5 shall be applied whenever a rule or bylaw of the Association is under judicial review, and the standards set forth in section 554 of title 5 shall be applied whenever a disciplinary action of the Association is judicially reviewed.

(Pub. L. 106-102, title III, § 335, Nov. 12, 1999, 113 Stat. 1433.)

§ 6766. Definitions

For purposes of this subchapter, the following definitions shall apply:

(1) Home State

The term “home State” means the State in which the insurance producer maintains its principal place of residence and is licensed to act as an insurance producer.

(2) Insurance

The term “insurance” means any product, other than title insurance, defined or regulated as insurance by the appropriate State insurance regulatory authority.

(3) Insurance producer

The term “insurance producer” means any insurance agent or broker, surplus lines broker, insurance consultant, limited insurance representative, and any other person that solicits, negotiates, effects, procures, delivers, renews, continues or binds policies of insurance or offers advice, counsel, opinions or services related to insurance.

(4) State

The term “State” includes any State, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

(5) State law

The term “State law” includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(Pub. L. 106-102, title III, § 336, Nov. 12, 1999, 113 Stat. 1433.)

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SUBCHAPTER IV—RENTAL CAR AGENCY INSURANCE ACTIVITIES

§ 6781. Standard of regulation for motor vehicle rentals

(a) Protection against retroactive application of regulatory and legal action

Except as provided in subsection (b) of this section, during the 3-year period beginning on

November 12, 1999, it shall be a presumption that no State law imposes any licensing, appointment, or education requirements on any person who solicits the purchase of or sells insurance connected with, and incidental to, the lease or rental of a motor vehicle.

(b) Preeminence of State insurance law

No provision of this section shall be construed as altering the validity, interpretation, construction, or effect of—

- (1) any State statute;
- (2) the prospective application of any court judgment interpreting or applying any State statute; or
- (3) the prospective application of any final State regulation, order, bulletin, or other statutorily authorized interpretation or action,

which, by its specific terms, expressly regulates or exempts from regulation any person who solicits the purchase of or sells insurance connected with, and incidental to, the short-term lease or rental of a motor vehicle.

(c) Scope of application

This section shall apply with respect to—

- (1) the lease or rental of a motor vehicle for a total period of 90 consecutive days or less; and
- (2) insurance which is provided in connection with, and incidentally to, such lease or rental for a period of consecutive days not exceeding the lease or rental period.

(d) Motor vehicle defined

For purposes of this section, the term “motor vehicle” has the same meaning as in section 13102 of title 49.

(Pub. L. 106-102, title III, § 341, Nov. 12, 1999, 113 Stat. 1434.)

CHAPTER 94—PRIVACY

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