



LEGISLATIVE POSITION

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FEDERAL INSURANCE ISSUES

Federal vs. state regulation of insurance

SUPPORT: PIA supports the current regulatory structure in which the business of insurance is regulated by the several states. PIA opposes various proposals at the federal level that would serve to weaken or destroy this regulatory authority.

In the most recent financial services melt-down, it has been the state-regulated insurance subsidiaries of troubled firms like AIG which have remained financially sound. State regulation has proved its efficacy in responding to the situation, while the relaxation of federal financial services regulation has exacerbated the changes that endanger our nation's financial stability.

OPPOSE: Among other proposals, PIA opposes S.40 and H.R.3200, which would allow insurance companies to choose a federal charter, thereby exempting themselves from significant oversight and consumer protections established by the states.

PIA also opposes the Insurance Information Act of 2008 (H.R.5840), which would set up an Office of Insurance Information within the U.S. Treasury Department. This bill would grant broad pre-emption powers to the Treasury, which could set aside state Insurance Law in many important areas.

PIA disagrees strongly with the roadmap laid out by the Treasury Department under the outgoing Bush administration for regulation of financial services. Besides federal charters, this vision statement would effectively undermine state regulatory authority in a variety of other ways. PIA believes it would fatally empower large national multi-national firms at the expense of small businesses.

H.R.5611—Insurance nonresident producer licensing (“NARAB II”)

Federal legislation as drafted contains fatal flaws. In the 110th Congress, **H.R.5611** passed the House of Representatives and was not acted upon by the U.S. Senate. It amends the Gramm-Leach-Bliley Act to establish a National Association of Registered Agents and Brokers. The purpose of this NARAB is to permit insurance producers, by joining, to gain entrée to acting as insurance producers in states other than their home state. Because its approach differs from that of the original NARAB provided for (but never implemented) in Gramm-Leach-Bliley, the bill sometimes is referred to as “NARAB II.”

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PIA does not oppose streamlining the process of achieving licensure in multiple states. However, PIA has raised significant questions regarding the approach taken by H.R.5611. Some of these same points also were raised in an analysis of the bill by the U.S. Department of Justice, which found parts of the bill to be unconstitutional and contrary to law. From a practical standpoint, PIA is concerned that insurance producers who engage in the business of insurance in jurisdictions as nonresidents under NARAB II (as drafted) could find themselves operating in a legal limbo that could subject them to potential legal and disciplinary action.

PIA position: PIA supports the original uniformity and reciprocity goals of Gramm-Leach-Bliley. In principle, PIA would not object to a revised “NARAB II” bill, provided it is redrafted in such a way as not to raise legal and constitutional issues. In addition, PIA will continue to work with the National Association of Insurance Commissioners and the National Insurance Producer Registry toward the goals of achieving greater ease of entry into multiple jurisdictions, consistent with state oversight of insurance licensees. As a voting member of the Board of the NIPR, which is the current organization serving as a clearinghouse for multi-state licensing, PIA would seek an equivalent role in NARAB II.

H.R.3121—Reform of National Flood Insurance Program

SUPPORT: PIA supports aspects of this legislation, including the need for a lengthy reauthorization of the National Flood Insurance Program and reforms that would offer higher limits of available coverage to people who need it.

PIA also supports provisions found in a Senate version of the bill (S.2284) that would forgive the NFIP’s debt to the U.S. Treasury of some \$17.5 billion as a result of devastating hurricanes occurring in recent years. Realistically, NFIP will not be able to repay this debt.

OPPOSE: PIA opposes one provision the House-passed bill, H.R.3121, which provides for an expansion of the NFIP to cover windstorm damage. Adding wind coverage to the NFIP would add greatly to the program’s financial exposure in the future.

The House and the Senate were unable to resolve differences on this issue and so passed a short-term, seven-month extension of the NFIP taking the issue into the 111th Congress. So, without further action by Congress, the NFIP authorization would run out on March 6, 2009. PIA encourages Congress to work out long-term reforms that will restore stability and integrity to this important source of insurance protection.

Natural catastrophe legislation (various bills)

A variety of legislative proposals have been considered that would add a certain level of federal protection to prevent the insolvency of private insurance carriers and their default on claims in the event of a major natural catastrophe. PIA believes that the utmost care should be exercised in order to maintain the maximum role for private sector insurance capacity to take on the risk of such catastrophes.

There is one way that Congress could enable insurers to better protect the public, and that is to change the federal tax rules. Insurers should be able to set aside a portion of each year's premiums to establish catastrophe reserves. These would then be available to pay for the low-frequency, high-severity events. However, current tax policy treats all premium collected but not paid out in claims or related expenses as profits to be taxed. Sheltering an actuarially appropriate fraction of premiums and allowing them to be kept in a "rainy-day fund" would help insurers pay for major catastrophes, protecting taxpayers from shouldering this burden directly.

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