

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 bylaws 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 sub-

section (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 be-

ginning 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