

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 Association 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 before 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

SUBCHAPTER I—DISCLOSURE OF NONPUBLIC PERSONAL INFORMATION

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