

(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 agency, 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 November 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 busi-

ness 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 require-