



**REPORT ON
LIMITED LINES INSURANCE**

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I. Introduction

During the 2013 Session, the Maryland General Assembly passed Senate Bill 682, Chapter 525 (Chapter 525), regarding Portable Electronics Insurance – Compensation of Employees of Vendor, Disclosures to Customers, and Study.¹ Chapter 525 amended the manner in which a vendor that holds a limited lines license to sell coverage under a policy of portable electronics insurance, or the vendor’s authorized representative, may compensate the vendor’s or authorized representative’s employees. National Association of Insurance Commissioner (NAIC) uniform licensing standards provide that such employees are not themselves required to hold a limited lines license, provided that the employee “does not receive a commission or compensation that is dependent on the placement of insurance.” Previously, Maryland law was consistent with this standard. Chapter 525 amended the law by adding the word “solely” to the following provision: “A vendor or an authorized representative of the vendor may compensate the employees of the vendor or of the authorized representative in a manner that does not depend *solely* on the sale of portable electronics insurance.” Md. Code Ann., Ins. Art. § 10-703(e)(2) (emphasis added).² For the first time under Maryland law, this amendment permits a person who is not licensed or otherwise authorized or regulated by the Insurance Commissioner (Commissioner) to sell, solicit or negotiate insurance contracts for compensation.

Section 4 of Chapter 525 also requires the Commissioner to track the number of complaints from consumers regarding the sales practices of unlicensed vendor employees and compile a summary of the allegations and the disposition of the complaints. On or before January 1, 2017, the Commissioner is to report her findings and recommendations to the Senate Finance Committee and the House Economic Matters Committee based on this complaint data and any other information that the Commissioner deems necessary to determine whether and how unlicensed vendor employees should be compensated for selling portable electronics limited line insurance.

This report complies with an additional provision of Chapter 525, which required the Insurance Commissioner to:

- (1) determine the types of limited lines insurance that are authorized to be offered in other states;
- (2) review the laws and practices of other states relating to the offering of limited lines insurance, including whether a license to sell a limited lines insurance policy is required, and whether and how employees of a licensee are compensated for selling a limited line insurance policy;
- (3) review the NAIC guidelines and standards relating to the authorization of limited lines insurance;
- (4) determine the appropriate regulatory structure, including consumer protections, for the sale of a limited lines insurance policy; and
- (5) report the Commissioner’s findings and recommendation to the Senate Finance Committee and House Economic Matters Committee.

¹ A copy of Chapter 525 is included in Appendix 1.

² Unless otherwise indicated, all statutory references are to the Insurance Article of the Annotated Code of Maryland.

Maryland law currently authorizes eight limited lines,³ including:

1. Credit - § 10-101(g)(1)⁴
2. HMO Enrolling Medicaid Recipients - § 10-124
3. Motor Vehicle (liability and physical damage) - § 10-123
4. Portable Electronics - §§ 10-701 through 10-708
5. Rental Vehicle - § 10-101(g)(3)
6. Title (attorneys and law firms) - § 10-125
7. Travel - § 10-122
8. Viatical Settlement Brokers - §§ 8-601 through 8-611

In addition, § 10-119(d) is a reciprocity provision, which grants non-resident producers a Maryland limited line producer license equivalent to that issued in the person's home state. National standards, as discussed in more detail below, provides that a state should authorize nine or fewer limited lines of insurance.

II. National Association of Insurance Commissioners Guidelines and Standards Relating to the Authorization of Limited Lines Insurance

The NAIC established Uniform Resident Licensing Standards (the Standards)⁵ and the Producer Licensing Model Act (PLMA).⁶ The purpose of the PLMA and the Standards is to facilitate uniformity and reciprocity among states regarding producer licensing and some producer-related regulations, while preserving a state's right to license, supervise, and discipline insurance producers and to pass and enforce laws protecting consumers and prohibiting unfair trade practices. The Standards establish testing and continuing education guidelines for insurance producers and the PLMA identifies and defines six major lines of insurance: life, accident and health, property, casualty, variable life and variable annuity, and personal lines.

Both the PLMA and the Standards address limited lines insurance. The PLMA included one limited line (credit) and one catch-all for any other line of insurance permitted under state laws or regulations. The PLMA defines limited line credit insurance to include credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection (gap) insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the insurance commissioner determines should be designated a form of limited line credit insurance.

³ Like many other states, Maryland law refers to limited lines *insurance* in some instances and limited lines *licenses* in others. As such, when conducting this study, laws for both limited lines insurance and limited lines licenses were reviewed.

⁴ Limited line credit insurance, as set out in §10-101(e) of the Insurance Article includes: (1) credit life insurance; (2) credit health insurance; (3) credit property insurance; (4) credit unemployment insurance; (5) credit involuntary unemployment benefit insurance; (6) mortgage life insurance; (7) mortgage guaranty insurance; (8) mortgage disability insurance; (9) guaranteed automobile protection (GAP) insurance; and (10) any other form of insurance that: (i) is offered in connection with an extension of credit; (ii) is limited to partially or wholly extinguishing that credit obligation; and (iii) the Commissioner determines should be designated a form of limited line credit insurance.

⁵ NAIC, Revisions and Clarifications to the Uniform Licensing Standards (Nov. 30, 2012).

⁶ Copies of the PLMA and the Standards are contained in Appendices 2 and 3, respectively.

The NAIC Standards contain greater detail about limited lines insurance. Standard 33 provides that a state should authorize nine or fewer limited lines of insurance, including four “core” limited lines of insurance: credit, crop, rental car, and travel. Standard 34 is dedicated to limited line travel insurance. A “travel retailer” is defined as a “business entity that offers and disseminates Travel Insurance on behalf and under the direction of a Limited Line Travel Insurance Producer.” Standard 34(A)(2). A “Limited Lines Travel Insurance Producer” is defined as “an insurer designee, such as a managing general underwriter, managing general agent, or limited lines producer of Travel Insurance.” Standard 34(A)(1). Among other requirements, to sell travel insurance, a travel retailer must identify in its marketing materials a Limited Lines Travel Insurance Producer who holds a business entity license and must be registered with that licensed business entity. Standard 34(B)(1)-(2). The licensed business entity must designate one of its employees who is a licensed insurance producer as a designated responsible producer (DRP) who is responsible for the business entity’s compliance with the state’s insurance laws. Standard 34(B)(3). Further, employees of the travel retailer must receive a program of instruction that may be subject to review by the state’s insurance commissioner. Standard 34(B)(6).

The Standards provide that if a state offers non-core limited lines, the state must have certain licensing requirements. Standard 37(A), (B). Specifically, a license may be issued to a person or business entity that sells, solicits or negotiates the limited line insurance. If issued to a business entity, the entity must: (1) obtain the license by completing the appropriate application and paying the designated fee; (2) identify a licensed individual producer as the business entity’s DRP, who must meet the state’s requirements for a DRP and would be responsible for the business entity’s compliance with the state’s insurance laws; (3) comply with fingerprinting requirements; and (4) keep a register of each employee that offers insurance on behalf of the business entity. Standard 37(B). Employees of the business entity offering limited line insurance must receive a program of instruction or training subject to review by the insurance department. Standard 37(D)(2).

For non-core limited lines, Standard 37(C)(2) provides that an employee of a business entity with a limited line license does not need to hold a license if the employee “[d]oes not receive a commission or compensation that is dependent on the placement of the insurance product.” However, “[i]ndividuals who sell, solicit or negotiate insurance or who receive commission or compensation that is dependent on the placement of the insurance product must obtain a limited line producer license.” Standard 37(D). The passage of Chapter 525 during the 2013 legislative session amended the law by adding the word “solely” to the provision: “A vendor or an authorized representative of the vendor may compensate the employees of the vendor or of the authorized representative in a manner that does not depend *solely* on the sale of portable electronics insurance.” Section 10-703(e)(2) (emphasis added). As a result, Maryland law is inconsistent with Standard 37.

Most states have adopted all or part of the PLMA and the Standards to move toward uniformity in producer licensing. According to the NAIC’s most recent assessment, 47 states were in compliance with the producer licensing reciprocity requirements.

III. Types of Limited Lines Insurance Authorized in Other States

In February 2013, the NAIC compiled a compendium of state-authorized limited lines (the Compendium).⁷ According to the Compendium, at least half of the 52 jurisdictions reviewed (the 50 states, the District of Columbia, and Puerto Rico) have authorized the sale of the four core limited lines identified in the NAIC Standards, as follows: credit insurance (47 jurisdictions, including Maryland); crop insurance (26 jurisdictions); rental car insurance (36 jurisdictions, including Maryland); and travel insurance (46 jurisdictions, including Maryland). The MIA's independent research indicates that a majority of states has authorized at least one additional limited line – portable electronics (45 jurisdictions, including Maryland).

A combination of the NAIC's Compendium and the MIA's independent research indicates that there are at least seven additional limited lines authorized by less than half but more than 10 jurisdictions, including bail bonds, mortgage insurance, motor club, surety, title agent, self-service storage insurance, and prepaid legal insurance. Only 14 states permit the sale of self-service storage limited line insurance. The Compendium identifies over 40 additional limited lines authorized by fewer than 10 states, with the vast majority of those limited lines adopted by fewer than five states. Examples include prepaid dental insurance, accidental death insurance, pet insurance, malpractice insurance, common carrier insurance, home warranty, and optometric service plans.

By the NAIC's count, as of February 2013, 41 jurisdictions had nine or fewer limited lines, including the core lines, in accordance with NAIC standards. Only three states – California, North Carolina, and Virginia, had authorized more limited lines than had Maryland.

IV. Review of the Laws and Practices of Other States

The MIA reviewed the statutes, regulations and practices of all other states and the District of Columbia to determine states' laws and practices regarding the four core limited lines (car rental, credit, crop insurance, and travel) plus the non-core limited lines of portable electronics and self-service storage. State regulation of limited lines insurance focuses largely upon:

- the licensure and appointment of those selling the insurance product, including the designation of DRPs for certain limited lines;
- producer education requirements;
- non-producer employee training;
- required consumer disclosures; and
- compensation of those selling limited lines insurance.

Each of those areas is addressed in turn below.

⁷ A copy of the NAIC Compendium is included as Appendix 4. The Compendium counted limited lines slightly differently than the manner in which they are codified in Maryland law, separating, for example, limited lines for motor vehicle liability and motor vehicle physical damage, and limited lines mortgage insurance from other types of limited lines credit insurance. The Maryland Insurance Administration (MIA) has not independently verified all of the NAIC's data, but it appears that in the past year, some jurisdictions have authorized additional limited lines. Also, the Compendium fails to reflect that Maryland allows a limited line for travel insurance.

A. Licensure and Appointment of Those Selling Insurance

Nearly all states require a licensed individual or entity to be involved at some level in the sale, solicitation, or negotiation of authorized limited lines insurance. Licensure of an individual, a retailer, or both creates a public record of every person authorized to sell insurance in the state. In most states, as in Maryland, a consumer may query the state's database to determine if a person offering insurance coverage is licensed. The MIA, like many state insurance departments, investigates complaints filed against licensed producers, and substantiated complaints result in appropriate administrative action including actions against unlicensed persons selling insurance.

Insurers "appoint" licensed insurance producers to sell their insurance policies. Insurer appointment provides the producer with the legal authority to act on behalf of the insurer to complete applications, bind coverage, collect premium, and remit premium to the insurance company. Producer appointment is a benefit to consumers because if issues arise regarding the date that coverage was bound, the benefits of the coverage, or the amount of premium paid, generally an insurer can be held responsible for the actions of its appointed producer. The number of states that require insurance producer appointment to sell limited lines varies substantially with the type of limited line. A clear majority of states require producer appointment for the sale, solicitation, or negotiation of credit insurance, crop insurance, and self-service storage insurance, for example, while only a handful of states require producer appointment for travel insurance.

In most states, the limited lines license application process is straight forward. In Maryland, a limited line producer license requires an application and an initial fee of \$54. For the portable electronics and motor vehicle rental limited lines of insurance, Maryland law currently requires the vendor or retailer firms to obtain a license, but the employees of those vendors or retailers need not be individually licensed. In both instances, the law makes clear that acts of the employees are deemed to be acts of the licensed producers; therefore, the insurer is held to account for the actions of its producer and the MIA maintains its authority to take action against the licensed producer even when an unlicensed employee for which it is responsible may have violated the insurance laws and regulations.

In a minority of states and in the current NAIC Standards relating to travel insurance, the direct relationship between an insurer and the persons offering the insurance coverage is severed. The insurer appoints a licensed producer (often called a managing general agent) who is then directly responsible for an unlicensed retailer and its employees, that offer insurance coverage for sale. Under this arrangement, some consumer protections may be undermined and enforcement capabilities diminished. For example, the licensed producer must maintain a registration list to include the name and contact information of each travel retailer and an officer or person who directs the travel retailer's operations. That unlicensed individual must certify that the travel retailer complies with federal law applicable to persons with certain felony convictions, which is in contrast to the typical producer application process where the state regulator inquires about compliance with federal law. *See* 18 USC § 1033. Further, if the unlicensed retailer or its employee fails to comply with the insurance laws, only the responsible producer is held accountable. Administrative action against the licensed producer does little to

address the behavior of the retailer or its employee, and no public record will exist about the acts of the unlicensed retailer or its employees, who may pursue business arrangements with other licensed producers.

B. Producer Educational Requirements

In contrast to the laws governing major line producer licenses, the majority of states do not require pre-licensing education, examination, or continuing education for most limited line licenses. An exception is crop insurance. Almost half of the states with a limited line for crop insurance require an examination and continuing education. Additionally, about a third of the states with a limited line for credit insurance require an examination, but only a few of those require either pre-licensing or continuing education.

In contrast, the MIA's research indicates that no state requires an examination for portable electronics and self-service storage limited lines licenses, and only one state requires pre-licensing and continuing education. A few states impose these requirements for travel, credit and car rental limited lines.

C. Non-Producer Employee Training

Whether employee training is required of unlicensed employees of vendors, retailers or licensed producers offering limited lines insurance varies among states and depends, in part, on the type of limited line insurance. Almost every state with portable electronics and self-service storage limited lines requires employee training.

Because Standard 36 generally discourages, and few states require, pre-licensing education, examinations or continuing education for limited lines insurance, employee training is important to convey information regarding appropriate sales practices and the insurance coverage offered for sale. For example, Maryland law requires a training program under the portable electronics limited line. Section 10-705(v). The training program must include:

- explanation about the limited line insurance coverage offered to customers;
- prohibition on representing or implying that the purchase of insurance is required to purchase the product or service;
- information that limited line insurance may provide duplicative coverage to that contained in other property or liability insurance policies; and
- knowledge about any disclosures that must be provided to customers.

Section 10-705(4)(i)-(iv). While employee training is not equivalent to the rigorous pre-licensing education, examination, and continuing education required of major line producers, it represents an acknowledgment that basic instruction for those offering and disseminating a limited line insurance product is necessary before insurance coverage is offered for sale.

D. Required Consumer Disclosures

Although not included in the Standards, many states mandate that disclosures be provided to purchasers of limited line insurance policies at the point of sale. This is most typical for car rental, portable electronics, and self-service storage limited lines. Disclosures generally must:

- be approved by the Commissioner;
- contain a summary of coverage including limitations and exclusions;
- state the name of the insurer providing the coverage and give the amount of the premium to be paid and any applicable deductible;
- indicate that the coverage may be duplicative of other insurance policies;
- specify that purchase of the insurance is not required to purchase the product or service;
- inform the insured how to file a claim, including whether a proof of loss is required;
- include information regarding the insured's right to cancel the policy; and
- provide contact information for the state regulator.

While neither a substitute for an experienced producer nor a policy that contains all terms and conditions of coverage, disclosures serve to inform the customer at the time of sale and act as a reference to be reviewed at a later date. Maryland law currently requires consumer disclosures for portable electronics insurance and motor vehicle rental insurance.

E. Compensation of Those Selling Limited Lines Insurance

For major line insurance, an individual must be a licensed insurance producer to receive compensation for the sale of insurance. Licensed insurance producers are compensated, in part, for their knowledge of the policies being sold, their expertise about the need for various types of coverage, and their professionalism. Therefore, licensed producers are permitted to accept commissions for the sale of insurance.

Compensation for limited lines insurance differs among the states and by line of insurance. Most states treat limited line crop insurance and credit insurance, for example, much like a major line, limiting compensation to licensed producers. For car rental, portable electronics, and self-service storage the general practice is that unlicensed employees of businesses selling these limited lines of insurance may receive compensation as long as it is not "based primarily" on the sale of insurance. In contrast, Chapter 525 changed Maryland's portable electronics law last session to allow compensation to unlicensed employees as long as the compensation does not depend "solely" on the sale of insurance.

Some states with limited line travel insurance allow the travel retailer (*i.e.*, a travel agency) and its employees to offer travel insurance and receive commissions as long as the travel retailer is registered with a managing general agent that holds a limited line producer license. Under current Maryland law, individual travel agents must be licensed limited line travel insurance producers; therefore, they are entitled to receive commissions directly from the insurer. Section 10-122.

V. Recommendations

1. Maryland should not authorize any additional limited lines of insurance at this time. NAIC Standards direct states to have no more than nine limited lines of insurance, including the four core lines (credit, crop, car rental, and travel). Presently, Maryland has authorized three of the four core lines (credit, car rental and travel), as well as five non-core lines (or eight distinct non-core limited lines, by the NAIC's count). According to the NAIC's compendium, as of February 2013, only New York, North Carolina, and Virginia have authorized more limited lines than Maryland. Prohibiting additional limited lines at this time and would provide the Commissioner the opportunity to report by January 1, 2017 on complaint and other data regarding the sales practices of vendor employees at point of sale as required by Section 4 of Chapter 525.
2. The MIA should review all provisions of the Insurance Article related to limited lines insurance and recommend clarifications and modernizations necessary to conform with the NAIC Standards, where appropriate.
3. Maryland should require any entity that offers and disseminates limited lines insurance to obtain a producer's license. A retailer or a vendor may apply for a license and its employees may be permitted to offer insurance coverage on behalf of the vendor or retailer without obtaining an individual producer's license, provided that appropriate employee training, consumer disclosures, and other consumer protection requirements are satisfied.
4. Consistent with current Maryland law for portable electronics and motor vehicle rental companies, employees of licensed vendors or retailers should complete a program of instruction that has been reviewed and approved by the Commissioner.
5. Consistent with current Maryland law for portable electronics insurance and motor vehicle rental insurance, consumer disclosures reviewed and approved by the Commissioner should be provided to any consumer who purchases a non-core limited line policy of insurance.
6. Maryland should not permit any further deviations from the NAIC Standards regarding compensation. For non-core limited lines this means that "[i]ndividuals who sell, solicit or negotiate insurance or who receive commission or compensation that is dependent on the placement of the insurance product must obtain a limited line insurance producer license." Standard 37(D)(1). An employee of a business entity with a limited line license does not need to hold a license if the employee "[d]oes not receive a commission or compensation that is dependent on the placement of the insurance product." Standard 37(C)(2).

APPENDICES

1. Chapter 525, Acts of 2013
2. NAIC Producer Licensing Model Act
3. Revisions and Clarifications to the NAIC's Uniform Licensing Standards
4. NAIC's Compendium of State Laws on Insurance Topics - Producer Licensing:
Limited Lines

Appendix 1

Chapter 525, Acts of 2013

Chapter 525

(Senate Bill 682)

AN ACT concerning

Portable Electronics Insurance – Compensation of Employees of ~~Vendor~~ Vendor, Disclosures to Customers Customers, and Study

FOR the purpose of providing that a vendor of portable electronics insurance or an authorized representative of the vendor may compensate employees of the vendor or an authorized representative in a certain manner; altering the content of certain disclosures that a vendor of portable electronics insurance must provide to customers under certain circumstances; requiring the Maryland Insurance Commissioner to make certain determinations and review certain laws, practices, guidelines, and standards relating to limited lines insurance; requiring the Commissioner to keep track of certain complaints regarding the sales practices of vendor employees at point of sale; requiring the Commissioner to report certain findings and recommendations to certain committees of the General Assembly on or before a certain date; providing for the termination of certain provisions of this Act; and generally relating to portable electronics insurance.

BY repealing and reenacting, with amendments,

Article – Insurance

Section 10–703(e) and 10–705(a)

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Insurance

10–703.

(e) (1) A vendor may receive compensation for billing and collection services under a policy of portable electronics insurance.

(2) A vendor or an authorized representative of the vendor may compensate the employees of the vendor or of the authorized representative in a manner that does not depend **SOLELY** on the sale of portable electronics insurance.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Insurance

10–705.

(a) A limited lines license to offer or sell coverage under a policy of portable electronics insurance to a customer issued under this subtitle authorizes a vendor or an authorized representative of the vendor to sell coverage under a policy of portable electronics insurance to customers at each location at which the vendor engages in portable electronics transactions in the State if:

(1) the portable electronics insurance policies have been filed with and approved by the Commissioner;

(2) the vendor holds an appointment under § 10–118 of this title with each authorized insurer that the vendor intends to represent;

(3) at each location where coverage under a policy of portable electronics insurance is offered or sold to customers, the vendor provides to the customers disclosures approved by the Commissioner that:

(i) summarize the material terms of the coverage under the policy of portable electronics insurance including:

1. the identity of the insurer;
2. the premium to be paid;
3. any applicable deductible;
4. the major features of the benefits of the coverage; and
5. the [major features of any exclusions, conditions, or other limitations] **KEY TERMS AND CONDITIONS** of coverage including whether the portable electronics may be repaired or replaced with similar make and model reconditioned or nonoriginal manufacturer parts or equipment;

(ii) 1. state that portable electronics insurance may duplicate insurance coverage already provided by a customer’s homeowner’s insurance policy, renter’s insurance policy, or other source of insurance coverage; and

2. state that the purchase of coverage under a policy of portable electronics insurance would make this coverage primary to any other coverage, including duplicate coverage;

(iii) state that the purchase of coverage under a policy of portable electronics insurance is not required in order to enter into the portable electronics transaction;

(iv) describe the process for filing a claim if the customer elects to purchase coverage under a policy of portable electronics insurance including a description of:

1. any requirement to pay a deductible;
2. any requirement to return portable electronics;
3. the maximum fee applicable if the customer fails to comply with a return requirement; and
4. any requirement to file a proof of loss;

(v) state that:

1. the customer may cancel coverage under the portable electronics insurance at any time; and
2. if the customer cancels coverage under the portable electronics insurance, any unearned premium will be refunded to the person paying the premium in accordance with applicable law; and

(vi) provide the toll-free consumer hotline telephone number of the Administration; and

(4) the vendor provides a training program, approved by the Commissioner, for any employee or authorized representative who sells coverage under a policy of portable electronics insurance to customers under this subtitle that includes instruction:

(i) about the portable electronics insurance offered to customers of the vendor;

(ii) that the employee or authorized representative may not represent or imply to a customer that purchase of coverage under a policy of portable electronics insurance is required in order to purchase portable electronics;

(iii) that portable electronics insurance may duplicate insurance coverage already provided by a customer's homeowner's insurance policy, renter's insurance policy, or other source of insurance coverage; and

(iv) about the other disclosures required by item (3) of this subsection.

SECTION 3. AND BE IT FURTHER ENACTED, That the Maryland Insurance Commissioner shall:

(1) determine the types of limited lines insurance that are authorized to be offered in other states;

(2) review the laws and practices of other states relating to the offering of limited lines insurance, including whether a license to sell a limited lines insurance policy is required, and whether and how employees of a licensee are compensated for selling a limited lines insurance policy;

(3) review the National Association of Insurance Commissioners' guidelines and standards relating to the authorization of limited lines insurance;

(4) determine the appropriate regulatory structure, including consumer protections, for the sale of a limited lines insurance policy; and

(5) on or before December 1, 2013, report the Commissioner's findings and recommendations, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee and the House Economic Matters Committee.

SECTION 4. AND BE IT FURTHER ENACTED, That the Maryland Insurance Commissioner shall:

(1) keep track of complaints from consumers regarding the sales practices of vendor employees at point of sale, including:

(i) the number of complaints;

(ii) a summary of the allegations contained in the complaints;

and

(iii) the disposition of the complaints;

(2) based on the complaints under paragraph (1) of this section and any other information the Commissioner determines necessary, determine whether and how vendor employees should be compensated for selling a portable electronics limited lines insurance policy; and

(3) on or before January 1, 2017, report the Commissioner's findings and recommendations, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee and the House Economic Matters Committee.

SECTION ~~2~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013. Section 1 of this Act shall remain effective for a period of 4 years and, at the end of September 30, 2017, with no further action required by the General Assembly, Section 1 of this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 16, 2013.

Appendix 2

NAIC Producer Licensing Model Act

PRODUCER LICENSING MODEL ACT

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Section 1. Purpose and Scope

This Act governs the qualifications and procedures for the licensing of insurance producers. It simplifies and organizes some statutory language to improve efficiency, permits the use of new technology and reduces costs associated with issuing and renewing insurance licenses.

This Act does not apply to excess and surplus lines agents and brokers licensed pursuant to Section [refer to state excess and surplus lines statutes] except as provided in Section 8 and Section 16B of this Act.

Drafting Note: It is recommended that any statute or regulation inconsistent with this Act be repealed or amended.

Drafting Note: This Act also requires a report to the insurance commissioner of the termination of a producer by an insurer, whether with or without cause.

Section 2. Definitions

- A. "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.
- B. "Home state" means the District of Columbia and any state or territory of the United States in which an insurance producer maintains his or her principal place of residence or principal place of business and is licensed to act as an insurance producer.
- C. "Insurance" means any of the lines of authority in [insert reference to appropriate section of state law].

Producer Licensing Model Act

- D. "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance.
- E. "Insurer" means [insert reference to appropriate section of state law].
- F. "License" means a document issued by this state's insurance commissioner authorizing a person to act as an insurance producer for the lines of authority specified in the document. The license itself does not create any authority, actual, apparent or inherent, in the holder to represent or commit an insurance carrier.
- G. "Limited line credit insurance" includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection (gap) insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the insurance commissioner determines should be designated a form of limited line credit insurance.
- H. "Limited line credit insurance producer" means a person who sells, solicits or negotiates one or more forms of limited line credit insurance coverage to individuals through a master, corporate, group or individual policy.
- I. "Limited lines insurance" means those lines of insurance defined in [insert reference to state specific limited line statute] or any other line of insurance that the insurance commissioner deems necessary to recognize for the purposes of complying with Section 8E.
- J. "Limited lines producer" means a person authorized by the insurance commissioner to sell, solicit or negotiate limited lines insurance.
- K. "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.
- L. "Person" means an individual or a business entity.
- M. "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company.
- N. "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.
- O. "Terminate" means the cancellation of the relationship between an insurance producer and the insurer or the termination of a producer's authority to transact insurance.
- P. "Uniform Business Entity Application" means the current version of the NAIC Uniform Business Entity Application for resident and nonresident business entities.

- Q. "Uniform Application" means the current version of the NAIC Uniform Application for resident and nonresident producer licensing.

Section 3. License Required

A person shall not sell, solicit or negotiate insurance in this state for any class or classes of insurance unless the person is licensed for that line of authority in accordance with this Act.

Section 4. Exceptions to Licensing

- A. Nothing in this Act shall be construed to require an insurer to obtain an insurance producer license. In this section, the term "insurer" does not include an insurer's officers, directors, employees, subsidiaries or affiliates.
- B. A license as an insurance producer shall not be required of the following:
- (1) An officer, director or employee of an insurer or of an insurance producer, provided that the officer, director or employee does not receive any commission on policies written or sold to insure risks residing, located or to be performed in this state and:
 - (a) The officer, director or employee's activities are executive, administrative, managerial, clerical or a combination of these, and are only indirectly related to the sale, solicitation or negotiation of insurance; or
 - (b) The officer, director or employee's function relates to underwriting, loss control, inspection or the processing, adjusting, investigating or settling of a claim on a contract of insurance; or
 - (c) The officer, director or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers where the person's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation or negotiation of insurance;
 - (2) A person who secures and furnishes information for the purpose of group life insurance, group property and casualty insurance, group annuities, group or blanket accident and health insurance; or for the purpose of enrolling individuals under plans; issuing certificates under plans or otherwise assisting in administering plans; or performs administrative services related to mass marketed property and casualty insurance; where no commission is paid to the person for the service;
 - (3) An employer or association or its officers, directors, employees, or the trustees of an employee trust plan, to the extent that the employers, officers, employees, director or trustees are engaged in the administration or operation of a program of employee benefits for the employer's or association's own employees or the employees of its subsidiaries or affiliates, which program involves the use of insurance issued by an insurer, as long as the employers, associations, officers, directors, employees or trustees are not in any manner compensated, directly or indirectly, by the company issuing the contracts;

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- (4) Employees of insurers or organizations employed by insurers who are engaging in the inspection, rating or classification of risks, or in the supervision of the training of insurance producers and who are not individually engaged in the sale, solicitation or negotiation of insurance;
- (5) A person whose activities in this state are limited to advertising without the intent to solicit insurance in this state through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of the state, provided that the person does not sell, solicit or negotiate insurance that would insure risks residing, located or to be performed in this state;
- (6) A person who is not a resident of this state who sells, solicits or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract, provided that that person is otherwise licensed as an insurance producer to sell, solicit or negotiate that insurance in the state where the insured maintains its principal place of business and the contract of insurance insures risks located in that state; or
- (7) A salaried full-time employee who counsels or advises his or her employer relative to the insurance interests of the employer or of the subsidiaries or business affiliates of the employer provided that the employee does not sell or solicit insurance or receive a commission.

Drafting Note: Persons who provide general insurance advice in connection with providing other professional services such as legal services, trust services, tax and accounting services, financial planning and investment advisory services are not deemed to be soliciting the sale of insurance under this Act. Sections 3 and 4 of this Act are intended to address all persons meeting the definition of "insurance producer" as defined in Title III, Section 336, of Public Law No. 106-102 (the "Gramm-Leach-Bliley Act").

Section 5. Application for Examination

- A. A resident individual applying for an insurance producer license shall pass a written examination unless exempt pursuant to Section 9. The examination shall test the knowledge of the individual concerning the lines of authority for which application is made, the duties and responsibilities of an insurance producer and the insurance laws and regulations of this state. Examinations required by this section shall be developed and conducted under rules and regulations prescribed by the insurance commissioner.
- B. The insurance commissioner may make arrangements, including contracting with an outside testing service, for administering examinations and collecting the nonrefundable fee set forth in [insert appropriate reference to state law or regulation].
- C. Each individual applying for an examination shall remit a nonrefundable fee as prescribed by the insurance commissioner as set forth in [insert appropriate reference to state law or regulation].
- D. An individual who fails to appear for the examination as scheduled or fails to pass the examination, shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

Drafting Note: A state may wish to prescribe by regulation limitations on the frequency of application for examination in addition to other prelicensing requirements.

Section 6. Application for License

A. A person applying for a resident insurance producer license shall make application to the insurance commissioner on the Uniform Application and declare under penalty of refusal, suspension or revocation of the license that the statements made in the application are true, correct and complete to the best of the individual's knowledge and belief. Before approving the application, the insurance commissioner shall find that the individual:

- (1) Is at least eighteen (18) years of age;
- (2) Has not committed any act that is a ground for denial, suspension or revocation set forth in Section 12;
- (3) Where required by the insurance commissioner, has completed a prelicensing course of study for the lines of authority for which the person has applied;

Drafting Note: Paragraph (3) would apply only to those states that have prelicensing education requirements.

- (4) Has paid the fees set forth in [insert appropriate reference to state law or regulation]; and
- (5) Has successfully passed the examinations for the lines of authority for which the person has applied.

B. A business entity acting as an insurance producer is required to obtain an insurance producer license. Application shall be made using the Uniform Business Entity Application. Before approving the application, the insurance commissioner shall find that:

- (1) The business entity has paid the fees set forth in [insert appropriate reference to state law or regulation]; and
- (2) The business entity has designated a licensed producer responsible for the business entity's compliance with the insurance laws, rules and regulations of this state.

Drafting Note: Subsection B is optional and would apply only to those states that have a business entity license requirement.

- C. The insurance commissioner may require any documents reasonably necessary to verify the information contained in an application.
- D. Each insurer that sells, solicits or negotiates any form of limited line credit insurance shall provide to each individual whose duties will include selling, soliciting or negotiating limited line credit insurance a program of instruction that may be approved by the insurance commissioner.

Section 7. License

- A. Unless denied licensure pursuant to Section 12, persons who have met the requirements of Sections 5 and 6 shall be issued an insurance producer license. An insurance producer may receive qualification for a license in one or more of the following lines of authority:
- (1) Life—insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income.
 - (2) Accident and health or sickness—insurance coverage for sickness, bodily injury or accidental death and may include benefits for disability income.
 - (3) Property—insurance coverage for the direct or consequential loss or damage to property of every kind.
 - (4) Casualty—insurance coverage against legal liability, including that for death, injury or disability or damage to real or personal property.
 - (5) Variable life and variable annuity products—insurance coverage provided under variable life insurance contracts and variable annuities.
 - (6) Personal lines—property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes.
 - (7) Credit—limited line credit insurance.
 - (8) Any other line of insurance permitted under state laws or regulations.
- B. An insurance producer license shall remain in effect unless revoked or suspended as long as the fee set forth in [insert appropriate reference to state law or regulation] is paid and education requirements for resident individual producers are met by the due date.
- C. An individual insurance producer who allows his or her license to lapse may, within twelve (12) months from the due date of the renewal fee, reinstate the same license without the necessity of passing a written examination. However, a penalty in the amount of double the unpaid renewal fee shall be required for any renewal fee received after the due date.
- D. A licensed insurance producer who is unable to comply with license renewal procedures due to military service or some other extenuating circumstance (e.g., a long-term medical disability) may request a waiver of those procedures. The producer may also request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with renewal procedures.

Drafting Note: References to license "renewal" should be deleted in those states that do not require license renewal.

- E. The license shall contain the licensee's name, address, personal identification number, and the date of issuance, the lines of authority, the expiration date and any other information the insurance commissioner deems necessary.

- F. Licensees shall inform the insurance commissioner by any means acceptable to the insurance commissioner of a change of address within thirty (30) days of the change. Failure to timely inform the insurance commissioner of a change in legal name or address shall result in a penalty pursuant to [insert appropriate reference to state law].
- G. In order to assist in the performance of the insurance commissioner's duties, the insurance commissioner may contract with non-governmental entities, including the National Association of Insurance Commissioner (NAIC) or any affiliates or subsidiaries that the NAIC oversees, to perform any ministerial functions, including the collection of fees, related to producer licensing that the insurance commissioner and the non-governmental entity may deem appropriate.

Section 8. Nonresident Licensing

- A. Unless denied licensure pursuant to Section 12, a nonresident person shall receive a nonresident producer license if:
 - (1) The person is currently licensed as a resident and in good standing in his or her home state;
 - (2) The person has submitted the proper request for licensure and has paid the fees required by [insert appropriate reference to state law or regulation];
 - (3) The person has submitted or transmitted to the insurance commissioner the application for licensure that the person submitted to his or her home state, or in lieu of the same, a completed Uniform Application; and
 - (4) The person's home state awards non-resident producer licenses to residents of this state on the same basis.

Drafting Note: In accordance with Public Law No. 106-102 (the "Gramm-Leach-Bliley Act") states should not require any additional attachments to the Uniform Application or impose any other conditions on applicants that exceed the information requested within the Uniform Application.

- B. The insurance commissioner may verify the producer's licensing status through the Producer Database maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries.
- C. A nonresident producer who moves from one state to another state or a resident producer who moves from this state to another state shall file a change of address and provide certification from the new resident state within thirty (30) days of the change of legal residence. No fee or license application is required.
- D. Notwithstanding any other provision of this Act, a person licensed as a surplus lines producer in his or her home state shall receive a nonresident surplus lines producer license pursuant to Subsection A of this section. Except as to Subsection A, nothing in this section otherwise amends or supercedes any provision of [refer to state excess and surplus lines statutes].
- E. Notwithstanding any other provision of this Act, a person licensed as a limited line credit insurance or other type of limited lines producer in his or her home state shall receive a nonresident limited lines producer license, pursuant to Subsection A of this section, granting the same scope of authority as granted under the license issued by

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the producer's home state. For the purposes of Section 8E, limited line insurance is any authority granted by the home state which restricts the authority of the license to less than the total authority prescribed in the associated major lines pursuant to Section 7A(1) through (6).

Section 9. Exemption from Examination

- A. An individual who applies for an insurance producer license in this state who was previously licensed for the same lines of authority in another state shall not be required to complete any prelicensing education or examination. This exemption is only available if the person is currently licensed in that state or if the application is received within ninety (90) days of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's Producer Database records, maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries, indicate that the producer is or was licensed in good standing for the line of authority requested.

- B. A person licensed as an insurance producer in another state who moves to this state shall make application within ninety (90) days of establishing legal residence to become a resident licensee pursuant to Section 6. No prelicensing education or examination shall be required of that person to obtain any line of authority previously held in the prior state except where the insurance commissioner determines otherwise by regulation.

Section 10. Assumed Names

An insurance producer doing business under any name other than the producer's legal name is required to notify the insurance commissioner prior to using the assumed name.

Section 11. Temporary Licensing

- A. The insurance commissioner may issue a temporary insurance producer license for a period not to exceed one hundred eighty (180) days without requiring an examination if the insurance commissioner deems that the temporary license is necessary for the servicing of an insurance business in the following cases:
 - (1) To the surviving spouse or court-appointed personal representative of a licensed insurance producer who dies or becomes mentally or physically disabled to allow adequate time for the sale of the insurance business owned by the producer or for the recovery or return of the producer to the business or to provide for the training and licensing of new personnel to operate the producer's business;
 - (2) To a member or employee of a business entity licensed as an insurance producer, upon the death or disability of an individual designated in the business entity application or the license;
 - (3) To the designee of a licensed insurance producer entering active service in the armed forces of the United States of America; or
 - (4) In any other circumstance where the insurance commissioner deems that the public interest will best be served by the issuance of this license.

- B. The insurance commissioner may by order limit the authority of any temporary licensee in any way deemed necessary to protect insureds and the public. The insurance commissioner may require the temporary licensee to have a suitable sponsor who is a licensed producer or insurer and who assumes responsibility for all acts of the temporary licensee and may impose other similar requirements designed to protect insureds and the public. The insurance commissioner may by order revoke a temporary license if the interest of insureds or the public are endangered. A temporary license may not continue after the owner or the personal representative disposes of the business.

Section 12. License Denial, Nonrenewal or Revocation

- A. The insurance commissioner may place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license or may levy a civil penalty in accordance with [insert appropriate reference to state law] or any combination of actions, for any one or more of the following causes:
- (1) Providing incorrect, misleading, incomplete or materially untrue information in the license application;
 - (2) Violating any insurance laws, or violating any regulation, subpoena or order of the insurance commissioner or of another state's insurance commissioner;
 - (3) Obtaining or attempting to obtain a license through misrepresentation or fraud;
 - (4) Improperly withholding, misappropriating or converting any monies or properties received in the course of doing insurance business;
 - (5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;
 - (6) Having been convicted of a felony;
 - (7) Having admitted or been found to have committed any insurance unfair trade practice or fraud;
 - (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;
 - (9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;
 - (10) Forging another's name to an application for insurance or to any document related to an insurance transaction;
 - (11) Improperly using notes or any other reference material to complete an examination for an insurance license;
 - (12) Knowingly accepting insurance business from an individual who is not licensed;

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- (13) Failing to comply with an administrative or court order imposing a child support obligation; or
- (14) Failing to pay state income tax or comply with any administrative or court order directing payment of state income tax.

Drafting Note: Paragraph (14) is for those states that have a state income tax.

- B. In the event that the action by the insurance commissioner is to nonrenew or to deny an application for a license, the insurance commissioner shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the denial or nonrenewal of the applicant's or licensee's license. The applicant or licensee may make written demand upon the insurance commissioner within [insert appropriate time period from state's administrative procedure act] for a hearing before the insurance commissioner to determine the reasonableness of the insurance commissioner's action. The hearing shall be held within [insert time period from state law] and shall be held pursuant to [insert appropriate reference to state law].
- C. The license of a business entity may be suspended, revoked or refused if the insurance commissioner finds, after hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers or managers acting on behalf of the partnership or corporation and the violation was neither reported to the insurance commissioner nor corrective action taken.
- D. In addition to or in lieu of any applicable denial, suspension or revocation of a license, a person may, after hearing, be subject to a civil fine according to [insert appropriate reference to state law].
- E. The insurance commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this Act and Title [insert appropriate reference to state law] against any person who is under investigation for or charged with a violation of this Act or Title [insert appropriate reference to state law] even if the person's license or registration has been surrendered or has lapsed by operation of law.

Section 13. Commissions

- A. An insurance company or insurance producer shall not pay a commission, service fee, brokerage or other valuable consideration to a person for selling, soliciting or negotiating insurance in this state if that person is required to be licensed under this Act and is not so licensed.
- B. A person shall not accept a commission, service fee, brokerage or other valuable consideration for selling, soliciting or negotiating insurance in this state if that person is required to be licensed under this Act and is not so licensed.
- C. Renewal or other deferred commissions may be paid to a person for selling, soliciting or negotiating insurance in this state if the person was required to be licensed under this Act at the time of the sale, solicitation or negotiation and was so licensed at that time.

- D. An insurer or insurance producer may pay or assign commissions, service fees, brokerages or other valuable consideration to an insurance agency or to persons who do not sell, solicit or negotiate insurance in this state, unless the payment would violate [insert appropriate reference to state law, i.e. citation to anti-rebating statute, if applicable].

Section 14. Appointments [Optional]

- A. An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. An insurance producer who is not acting as an agent of an insurer is not required to become appointed.
- B. To appoint a producer as its agent, the appointing insurer shall file, in a format approved by the insurance commissioner, a notice of appointment within fifteen (15) days from the date the agency contract is executed or the first insurance application is submitted. An insurer may also elect to appoint a producer to all or some insurers within the insurer's holding company system or group by the filing of a single appointment request.

Drafting Note: The group appointment provision of Subsection B is only applicable in jurisdictions that have implemented an electronic appointment process.

- C. [Optional] Upon receipt of the notice of appointment, the insurance commissioner shall verify within a reasonable time not to exceed thirty (30) days that the insurance producer is eligible for appointment. If the insurance producer is determined to be ineligible for appointment, the insurance commissioner shall notify the insurer within five (5) days of its determination.
- D. An insurer shall pay an appointment fee, in the amount and method of payment set forth in [insert appropriate reference to state law or regulation], for each insurance producer appointed by the insurer.
- E. [Optional] An insurer shall remit, in a manner prescribed by the insurance commissioner, a renewal appointment fee in the amount set forth in [insert appropriate reference to state law or regulation].

Drafting Note: This act designates as optional the section on appointments of producers by insurers. That designation recognizes that some states do not require the formal appointment of a producer before business can be conducted with an insurer or multiple insurers.

Section 15. Notification to Insurance Commissioner of Termination

- A. **Termination for Cause.** An insurer or authorized representative of the insurer that terminates the appointment, employment, contract or other insurance business relationship with a producer shall notify the insurance commissioner within thirty (30) days following the effective date of the termination, using a format prescribed by the insurance commissioner, if the reason for termination is one of the reasons set forth in Section 12 or the insurer has knowledge the producer was found by a court, government body, or self-regulatory organization authorized by law to have engaged in any of the activities in Section 12. Upon the written request of the insurance commissioner, the insurer shall provide additional information, documents, records or other data pertaining to the termination or activity of the producer.

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- B. Termination Without Cause. An insurer or authorized representative of the insurer that terminates the appointment, employment, or contract with a producer for any reason not set forth in Section 12, shall notify the insurance commissioner within thirty (30) days following the effective date of the termination, using a format prescribed by the insurance commissioner. Upon written request of the insurance commissioner, the insurer shall provide additional information, documents, records or other data pertaining to the termination.

Drafting Note: Those states that do not require formal appointments may delete any reference to appointments in Subsections A and B above.

- C. Ongoing Notification Requirement. The insurer or the authorized representative of the insurer shall promptly notify the insurance commissioner in a format acceptable to the insurance commissioner if, upon further review or investigation, the insurer discovers additional information that would have been reportable to the insurance commissioner in accordance with Subsection A had the insurer then known of its existence.
- D. Copy of Notification to be Provided to Producer.
- (1) Within fifteen (15) days after making the notification required by Subsections A, B and C, the insurer shall mail a copy of the notification to the producer at his or her last known address. If the producer is terminated for cause for any of the reasons listed in Section 12, the insurer shall provide a copy of the notification to the producer at his or her last known address by certified mail, return receipt requested, postage prepaid or by overnight delivery using a nationally recognized carrier.
 - (2) Within thirty (30) days after the producer has received the original or additional notification, the producer may file written comments concerning the substance of the notification with the insurance commissioner. The producer shall, by the same means, simultaneously send a copy of the comments to the reporting insurer, and the comments shall become a part of the insurance commissioner's file and accompany every copy of a report distributed or disclosed for any reason about the producer as permitted under Subsection F.
- E. Immunities
- (1) In the absence of actual malice, an insurer, the authorized representative of the insurer, a producer, the insurance commissioner, or an organization of which the insurance commissioner is a member and that compiles the information and makes it available to other insurance commissioners or regulatory or law enforcement agencies shall not be subject to civil liability, and a civil cause of action of any nature shall not arise against these entities or their respective agents or employees, as a result of any statement or information required by or provided pursuant to this section or any information relating to any statement that may be requested in writing by the insurance commissioner, from an insurer or producer; or a statement by a terminating insurer or producer to an insurer or producer limited solely and exclusively to whether a termination for cause under Subsection A was reported to the insurance commissioner, provided that the propriety of any termination for cause under Subsection A is certified in writing by an officer

or authorized representative of the insurer or producer terminating the relationship.

- (2) In any action brought against a person that may have immunity under Paragraph (1) for making any statement required by this section or providing any information relating to any statement that may be requested by the insurance commissioner, the party bringing the action shall plead specifically in any allegation that Paragraph (1) does not apply because the person making the statement or providing the information did so with actual malice.
- (3) Paragraph (1) or (2) shall not abrogate or modify any existing statutory or common law privileges or immunities.

F. Confidentiality

- (1) Any documents, materials or other information in the control or possession of the department of insurance that is furnished by an insurer, producer or an employee or agent thereof acting on behalf of the insurer or producer, or obtained by the insurance commissioner in an investigation pursuant to this section shall be confidential by law and privileged, shall not be subject to [insert open records, freedom of information, sunshine or other appropriate phrase], shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the insurance commissioner is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the insurance commissioner's duties.
- (2) Neither the insurance commissioner nor any person who received documents, materials or other information while acting under the authority of the insurance commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to Paragraph (1).
- (3) In order to assist in the performance of the insurance commissioner's duties under this Act, the insurance commissioner:
 - (a) May share documents, materials or other information, including the confidential and privileged documents, materials or information subject to Paragraph (1), with other state, federal, and international regulatory agencies, with the National Association of Insurance Commissioners, its affiliates or subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material or other information;
 - (b) May receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the National Association of Insurance Commissioners, its affiliates or subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding

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that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information; and

- (c) [OPTIONAL] May enter into agreements governing sharing and use of information consistent with this subsection.

Drafting Note: The language in Paragraph 3(a) assumes the recipient has the authority to protect the applicable confidentiality or privilege, but does not address the verification of that authority, which would presumably occur in the context of a broader information sharing agreement.

- (4) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in Paragraph (3).
- (5) Nothing in this Act shall prohibit the insurance commissioner from releasing final, adjudicated actions including for cause terminations that are open to public inspection pursuant to [insert appropriate reference to state law] to a database or other clearinghouse service maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries of the National Association of Insurance Commissioners.

- G. Penalties for Failing to Report. An insurer, the authorized representative of the insurer, or producer that fails to report as required under the provisions of this section or that is found to have reported with actual malice by a court of competent jurisdiction may, after notice and hearing, have its license or certificate of authority suspended or revoked and may be fined in accordance with [insert appropriate reference to state law].

Section 16. Reciprocity

- A. The insurance commissioner shall waive any requirements for a nonresident license applicant with a valid license from his or her home state, except the requirements imposed by Section 8 of this Act, if the applicant's home state awards nonresident licenses to residents of this state on the same basis.
- B. A nonresident producer's satisfaction of his or her home state's continuing education requirements for licensed insurance producers shall constitute satisfaction of this state's continuing education requirements if the non-resident producer's home state recognizes the satisfaction of its continuing education requirements imposed upon producers from this state on the same basis.

Drafting Note: States are encouraged to eliminate any licensing and appointment retaliatory fees. In accordance with Public Law No. 106-102 (the "Gramm-Leach-Bliley Act") states should not require non-resident fees that are so disparate from the resident fees that they impose a barrier to entry. Such fees would be prohibited under Public Law 106-102.

Section 17. Reporting of Actions

- A. A producer shall report to the insurance commissioner any administrative action taken against the producer in another jurisdiction or by another governmental agency in this state within thirty (30) days of the final disposition of the matter. This report shall include a copy of the order, consent to order or other relevant legal documents.

- B. Within thirty (30) days of the initial pretrial hearing date, a producer shall report to the insurance commissioner any criminal prosecution of the producer taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing and any other relevant legal documents.

Section 18. Compensation Disclosure

- A. (1) Where any insurance producer or any affiliate of the producer receives any compensation from the customer for the placement of insurance or represents the customer with respect to that placement, neither that producer nor the affiliate shall accept or receive any compensation from an insurer or other third party for that placement of insurance unless the producer has, prior to the customer's purchase of insurance:
- (a) Obtained the customer's documented acknowledgment that such compensation will be received by the producer or affiliate; and
 - (b) Disclosed the amount of compensation from the insurer or other third party for that placement. If the amount of compensation is not known at the time of disclosure, the producer shall disclose the specific method for calculating the compensation and, if possible, a reasonable estimate of the amount.
- (2) Paragraph (1) shall not apply to an insurance producer who:
- (a) Does not receive compensation from the customer for the placement of insurance; and
 - (b) In connection with that placement of insurance represents an insurer that has appointed the producer; and
 - (c) Discloses to the customer prior to the purchase of insurance:
 - (i) That the insurance producer will receive compensation from an insurer in connection with that placement; or
 - (ii) That, in connection with that placement of insurance, the insurance producer represents the insurer and that the producer may provide services to the customer for the insurer.

Drafting Note: In states where no appointment is required, the phrase "that has contractually authorized the producer to act as its legal agent" may be substituted for "that has appointed the producer."

- B. A person shall not be considered a "customer" for purposes of this section if the person is merely:
- (1) A participant or beneficiary of an employee benefit plan; or
 - (2) Covered by a group or blanket insurance policy or group annuity contract sold, solicited or negotiated by the insurance producer or affiliate.
- C. This section shall not apply to:

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- (1) A person licensed as an insurance producer who acts only as an intermediary between an insurer and the customer's producer, for example a managing general agent, a sales manager, or wholesale broker; or
- (2) A reinsurance intermediary.

D. For purposes of this section:

- (1) "Affiliate" means a person that controls, is controlled by, or is under common control with the producer.
- (2) "Compensation from an insurer or other third party" means payments, commissions, fees, awards, overrides, bonuses, contingent commissions, loans, stock options, gifts, prizes or any other form of valuable consideration, whether or not payable pursuant to a written agreement.
- (3) "Compensation from the customer" shall not include any fee or similar expense as provided in [insert reference to statutory provisions or regulations] or any fee or amount collected by or paid to the producer that does not exceed an amount established by the commissioner.
- (4) "Documented acknowledgement" means the customer's written consent obtained prior to the customer's purchase of insurance. In the case of a purchase over the telephone or by electronic means for which written consent cannot reasonably be obtained, consent documented by the producer shall be acceptable.

E. This section shall take effect [insert date].

Drafting Note: States that are considering the licensing of business entities should reference Section 6B of the NAIC's Producer Licensing Model Act and the Uniform Application for Business Entity License/Registration, which address the licensing of a business entity acting as an insurance producer.

Section 19. Regulations

The insurance commissioner may, in accordance with [insert appropriate reference to state law], promulgate reasonable regulations as are necessary or proper to carry out the purposes of this Act.

Section 20. Severability

If any provisions of this Act, or the application of a provision to any person or circumstances, shall be held invalid, the remainder of the Act, and the application of the provision to persons or circumstances other than those to which it is held invalid, shall not be affected.

Section 21. Effective Date

This Act shall take effect [insert date].

Note: A minimum of six months to one year implementation time for proper notice of changes, fees and procedures is recommended.

Chronological Summary of Action (all references are to the Proceedings of the NAIC)

1988 Proc. I 9, 18, 91, 101-102, 106-109 (adopted).
1989 Proc. I 9, 21, 125, 129, 135-142 (amended and reprinted).
1989 Proc. II 13, 22-23, 161, 166-167, 173-184, 189-190 (amended and reprinted).
1990 Proc. II 7, 13-14, 159-160, 192, 195 (amended).
1997 Proc. 3rd Quarter 25, 26, 1148, 1166-1168 (amended).
1999 Proc. 3rd Quarter 121, 123-136 (model adopted by parent committee).
2000 Proc. 1st Quarter 9-23, 33 (amended and reprinted).
2000 Proc. 3rd Quarter 7, 11, 36-45, 386, 403 (amended and reprinted).
2005 Proc. 1st Quarter 55, 56-57 (amended).

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Appendix 3

Revisions and Clarifications to the NAIC's Uniform Licensing Standards

REVISIONS AND CLARIFICATIONS TO THE UNIFORM LICENSING STANDARDS

The uniform licensing standards, adopted by the NAIC in December 2002, were revised in December 2008 based upon issues identified during the Producer Licensing Assessments conducted in 2007 and 2008. The standards are again proposed for revisions to more specifically address limited line requirements.

The standards are broken down into the following broad categories (1) licensing qualifications standards; (2) pre-licensing education requirements; (3) integrity and personal background checks; (4) application for licensure; (5) the appointment process; (6) continuing education requirements; (7) limited lines and (8) surplus lines.

LICENSING QUALIFICATIONS STANDARDS

1. Age:

Applicant must be 18 years of age.

2. Citizenship:

No U.S. citizenship is required but applicant must have legal work authorization if he/she is not a U.S. citizen. The resident state will require proof of proper work authorization for non-citizens at the time of initial application. The resident state may ask for evidence of current work authorization if the initial work papers have expired.

3. Education:

No high school diploma is required.

PRE-LICENSING EDUCATION TRAINING STANDARDS FOR RESIDENT APPLICANTS

4. Hours Required:

No pre-licensing education is required; however, states that require pre-licensing education shall require 20 hours of pre-licensing education per major line of authority. For example, an applicant seeking 2 major lines of authority, such as the property line and the casualty line needs 40 hours of pre-licensing education. If a state has less or more hours per line of authority, it would not be compliant with this standard and will need to increase or decrease the number of required hours. States may waive pre-licensing education requirements for the variable line of authority. States shall independently determine the content requirements for pre-licensing education. No state shall require additional pre-licensing education for non-resident applicants or non-resident producers who change their state of residency.

5. Training Method:

States must accept classroom study verifiable self-study or a combination of both. Online learning may be a combination of verifiable self-study and classroom study. Classroom

study may include distance learning, webinars, virtual classes and traditional classroom teaching. States have discretion to limit, but may not prohibit, verifiable self study.

6. Verification of Completion:

Applicant or pre-licensing education provider must submit original certificate of completion or verification of completion to the insurance department or to the testing vendor of the applicant's home state through a hard copy submission or electronic transmission.

7. Waiver/Exemption:

States must allow for waiver or exemption of pre-licensing education if the applicant can verify he or she has obtained certain verifiable, recognized professional designation(s) that requires education and formal testing, or a bachelor's or advanced degree in insurance. The following designations are examples of those which may be authorized for waiver of pre-licensing education:

- CEBS, ChFC, CIC, CFP, CLU, FLMI, LUTCF for Life Line of Authority.
- RHU, CEBS, REBC, HIA for Health Line of Authority.
- AAI, ARM, CIC, CPCU for Property and Casualty Lines of Authority.

A bachelor's degree or advanced degree in insurance would waive/exempt the pre-licensing education for all lines of authority.

PRODUCER LICENSING TEST STANDARDS FOR RESIDENT APPLICANTS

8. Lines of Authority:

States must adopt the six major lines as defined in the Producer Licensing Model Act (PLMA). These are as follows: (1) Life, (2) Accident and Health or Sickness, (3) Property, (4) Casualty, (5) Variable Life and Variable Annuity Products and (6) Personal Lines. States must offer a separate test for each major line of authority; however, combination exams may be offered. States may, but are not required to, waive testing for the Variable Products line. The resident state shall verify an applicant for Variable Product line has successfully completed the appropriate securities exams and is registered with FINRA.

9. Waiver/Exemption:

No waiver or exemption except for those noted in Section 9 of the PLMA. An individual who applies for an insurance producer license in this state and who was previously licensed for the same lines of authority in another state shall not be required to complete any pre-licensing education or examination. This exemption is only available if the person is currently licensed in that state or if the application is received within ninety (90) days of the cancellation of the applicant's previous license and at the time of cancellation, the applicant was in good standing in that state. Verification shall be done via the State Producer Licensing Database (SPLD) unless data is unavailable.

10. Exam Content and Testing Administration Standards:

States will implement the Producer testing Programs Recommended Best Practices found in Chapter 8 of the NAIC State Licensing Handbook, attached as an Appendix to these Standards.

**Producer Exam Content and Testing Administration Recommended
Best Practices for Regulators**

- States should use accepted psychometric methods including job analysis to determine if the examination content falls within the content domain that a minimally competent candidate of that specific line of authority tested would be expected to know.
- States should set passing scores (cut scores) and difficulty level using psychometric methods and appropriate Subject Matter Experts and based on what an entry level producer needs to know.
- States are encouraged to move to one part exams
- States should require the test vendor or other entity responsible for test development, to document the process for ensuring quality control and validity of the examination including psychometric review and editing and analysis of item bias or cultural and gender sensitivity.
- To allow for meaningful comparison, all jurisdictions should define first time pass rate as the percentage of candidates who pass the whole test the first time.
- At least annually, reports regarding exam pass rates, candidate demographics when collected, and number of exams administered should be made available to the public. Reports should include first-time pass success; and average scoring by subject area. Whenever possible, the reports should be available by education provider and provided to those providers
- A state advisory committee consisting of regulators and industry, including, where possible, recently licensed producers, should annually work with the testing vendor to review the questions on each examination form for substantive and psychometric requirements. If during any other time any examination results exhibit significant unexplained deviations, the examination should be reviewed.
- States should work with testing vendors and approve Candidate Information Bulletins (CIB) that describe the examinations and examination policies and procedures, and provide sufficient examination content outline and study references for the candidate to prepare for the examination. Updated editions of the CIB/ Content Outline should be provided to prelicensing education providers at least six weeks in advance of implementation so that training materials can be updated.
- Testing should be made available at locations reasonably convenient to residents of all areas of the state, with registration available online or by telephone and the ability for a candidate to schedule testing within 2- 5 business days of registration.

- Pass/Fail notices should be issued at exam sites upon taking the exam. The fail notice should break scores out by each subject area. The state should provide a method to facilitate prompt retesting, while allowing a reasonable time for candidates to review and prepare for retest.
- States should deliver exams in a secure test center network that employs qualified test proctors.
- States should set clear performance standards for test vendors and require accountability

INTEGRITY/PERSONAL QUALIFICATIONS/BACKGROUND CHECKS STANDARDS

13. Integrity/Personal Qualifications:

At a minimum, as defined in Section 12 the PLMA.

14. Background Checks: (Standard 14C for resident only)

Background checks will be conducted through the following three steps:

A. States will ask and review the answers to the standard background questions contained on the Uniform Applications;

B. States will run a check against the NAIC RIRS/SPLD and SAD; and

C(1). States will fingerprint their resident producer applicants for major lines of authority, and crop and where required, designated responsible producers for limited lines business entities and conduct state and federal criminal background checks on new resident producer applicants; or

C(2) If a state lacks the authority or resources to accept and receive data from the FBI, it shall conduct a statewide criminal history background check through the appropriate governmental agency for new resident producer applicants for major lines of authority, and crop and where required, designated responsible producers for limited lines business entities until such time as it obtains the appropriate authority.

In order to be fully compliant with standard 14, a state must fingerprint and conduct state and federal criminal history background checks on their new resident applicants. Although electronic fingerprinting is strongly encouraged, a state will be compliant with this requirement if the fingerprints are obtained through paper when electronic means are unavailable.

A state may, but is not required to fingerprint resident producers not previously fingerprinted at the time of application or when adding additional lines of authority to their license. States shall not fingerprint nonresident applicants.

APPLICATION FOR LICENSURE/LICENSE STRUCTURE STANDARDS

15. Application:

States must use the current version of the NAIC Uniform Application for initial licensing as set forth in the PLMA. A state which accepts electronic applications shall be considered compliant if it is using the same data fields and questions contained in the most current version of the NAIC Uniform Application.

16. Lines of Authority Issued:

A Six major lines of authority consistent with the definitions found in the NAIC's PLMA. A state's definition of a major line of authority should not expand or reduce the products that can be offered under the major lines defined by PLMA. Each major line of authority must be offered independently and cannot be offered as a limited line (such as industrial life or fire or personal lines or auto).

A state may require a life license requirement for a resident producer seeking variable products authority. States that adopt surety as a separate line must designate it as a limited line since surety is typically included within the casualty line of authority.

If an applicant is in good standing in his or her home state for the line(s) of authority requested, the nonresident state shall grant the line(s) of authority without further verification of eligibility for the authority. This standard does not limit the state's ability to deny the license based on integrity/personal qualifications and background check standards

B.- Core limited lines as defined in Standard-33. If a state elects to offer other non-core limited lines, such as legal expense insurance or pet insurance, it shall do so in accordance with Standard 37.

17. License Term:

The term of the license shall be perpetual contingent upon payment of fee and completion of resident CE, as set forth in Subsection 7B of the PLMA.

18. Continuation Process:

Individual licenses will renew/continue on a biennial basis on the licensee's month of birth or date of birth. Business entity licenses will continue on a date certain.

States are compliant when using either date of birth or birth month. Birth month is defined as the last date of birth month. States that need to make changes to become compliant, however, are urged to choose birth month.

States may wish to consider having the year of renewal/continuation based on the year of birth. For example, if the producer was born in an odd-numbered year, the producer would renew his/her license in odd numbered years. If the producer was born in an even-numbered year, the producer would renew his/her license in even numbered years.

If a state is only collecting a fee for continuation, no application is required; however, if the state is using an application or asking questions as part of the renewal/continuation process, the state must use only the most current version of the NAIC Uniform

Application for Producer License Renewal/Continuation. A state shall be considered compliant if the state is using the same data fields contained in the most current version of the NAIC Uniform Application.

19. Enforcement:

Denial/revocation and imposition of civil penalties at minimum as established in Section 12 of the PLMA. The state shall participate in the NAIC attachment warehouse Personal Information Capture System (PICS) alerts or another appropriate mechanism to monitor actions against existing licensees and take necessary action, when warranted based on the information obtained through such notifications.

20. Fee:

.Non-resident licensing fees must not be so high as to be a barrier to entry as set forth in GLBA.

APPOINTMENT PROCESS STANDARDS

21. Process:

If a state requires appointments, it shall follow the appointment and termination process as defined in the Uniform Appointment Process or use the NIPR electronic appointment and termination process. In addition, states shall mail a pre-notice renewal letter or provide electronic notice to companies informing them that appointment renewals are imminent. (Process and form attached).

22. Appointment Renewal Cycle:

Appointments shall be continuous subject to payment of any applicable fees. Fees must be calculated as of a date certain.

CONTINUING EDUCATION REQUIREMENTS STANDARDS FOR RESIDENT PRODUCERS

23. Credit Required:

Twenty-four (24) hours of CE for all major lines of authority with three (3) of the twenty-four hours covering ethics. Fifty minutes shall equal one hour of CE.

24. Term of Compliance:

The biennial CE compliance period shall coincide with the producer's license continuation date.

25. Lines of Authority:

CE shall be required for the six (6) major lines of authority contained in the PLMA.

26. Subject Area Requirements:

States may determine the subject area requirements for CE except that 3 of the 24 hours of CE shall be in ethics.

27. Repeating of CE Courses:

Producers may repeat CE courses for credit but will not be permitted to take a course for credit more than once in a license continuation period.

28. CE Study Method:

States must accept both classroom study, verifiable self-study or a combination of both. On-line learning may be a combination of verifiable self-study and classroom study. Classroom study may include distance learning, webinars, virtual classes and traditional classroom. States have discretion to limit, but may not prohibit, verifiable self study.

29. Verification of Completion:

The Producer or CE provider must submit the original certificate of completion or verification of completion to the insurance department of the producer's home state through either a hard copy submission or electronic transmission.

30. Waiver/Exemption:

None, except as provided in subsection 7D of the PLMA.

A state may not permit any waivers or exemptions except as provided in subsection 7D of the PLMA. States must eliminate waivers based on age or years in the business on a prospective basis. In so doing, those producers currently licensed and exempt or eligible for a waiver prior to the elimination of the exemption would remain exempt. A state which has successfully effectuated such a change shall be considered compliant with this standard. States with waivers for professional designations should consider allowing CE credits for filed and approved courses used to obtain and maintain professional designations.

31. Course Approval Standards and Process:

Follow the standards set forth in the CE Reciprocity (CER) Course Filing Form (CER Form and instructions attached).

32. Advertising of CE Programs:

CE hours should not be advertised until state course approval is received; however, if the course is advertised prior to start approval, the advertisement must clearly state that the course is pending state approval.

LIMITED LINES UNIFORMITY STANDARDS**33. Definitions of Core Limited Lines:**

A state shall have nine or fewer limited lines, which include the core limited lines. A state shall adopt definitions for car rental, credit, crop, and travel that are consistent with the definition of the core limited lines adopted by the NAIC in Appendix A. The state must have Credit as defined in PLMA.

34. Limited Lines Travel Insurance Standard (adopted 8/16/10)

A. Definitions.

- (1) "Limited Lines Travel Insurance Producer" means an insurer designee, such as a managing general underwriter, managing general agent, or limited lines producer of Travel Insurance.
- (2) "Travel Retailer" means a business entity that offers and disseminates Travel Insurance on behalf and under the direction of a Limited Line Travel Insurance Producer.
- (3) "Travel Insurance" means Insurance coverage for personal risks incident to planned travel, including but not limited to:
 - a. Interruption or cancellation of trip or event;
 - b. Loss of baggage or personal effects;
 - c. Damages to accommodations or rental vehicles;
 - d. Sickness, accident, disability or death occurring during travel.

Travel insurance does not include major medical plans, which provide comprehensive medical protection for travelers with trips lasting 6 months or longer, including for example, those working overseas as an expatriate or military personnel being deployed.

B. A Travel Retailer may offer and disseminate Travel Insurance under Limited Lines Travel Insurance Producer business entity ("licensed business entity") license only, if the Limited Lines Travel Insurance Producer holds a business entity license and:

- (1) The licensed business entity is clearly identified as the licensed producer on marketing materials and fulfillment packages distributed by Travel Retailers to customers; identification shall include the entity's name and contact information;
- (2) The licensed business entity keeps a register of each Travel Retailer that offers Travel Insurance on the licensed business entity's behalf. The register shall include the name and contact information of the Travel Retailer and an officer or person who directs or controls the Travel Retailer's operations, and the Travel Retailer's FEIN number. The licensed business entity shall also certify that the Travel Retailer registered complies with 18 USC 1033. The licensed business entity shall submit such Register within 30 days upon request by the state insurance department;
- (3) The licensed business entity has designated one of its employees as a licensed individual producer (a "Designated Responsible Producer" or "DRP") responsible for the business entity's compliance with the insurance laws, rules and regulations of the state;
- (4) The DRP, president, secretary, treasurer, and any other officer or person who directs or controls the licensed business entity's insurance operations comply with the fingerprinting requirements applicable to insurance producers in the resident state of the business entity;
- (5) The licensed business entity has paid all applicable insurance producer licensing

fees as set-forth in applicable state law; and

(6) The licensed business entity requires each employee of the Travel Retailer whose duties include offering and disseminating Travel Insurance to receive a program of instruction or training, which may be subject to review by the commissioner.

C. A Travel Retailer, including its employees, whose activities are limited to offering Travel Insurance on behalf of and under the direction of a licensed business entity meeting the conditions stated in paragraph A above, is authorized to do so upon registration by the licensed business entity as described in paragraph A.2. above.

D. As the insurer designee, the Limited Lines Travel Insurance Producer is responsible for the acts of the Travel Retailer.

Drafting Note: For purposes of state implementation, states may incorporate Limited Lines Travel Insurance as an authorized limited line by way of statute, administrative regulation, order, bulletin or similar regulatory action pursuant to the state statutory authority for designation of limited lines.

35. Crop Limited Lines Standard

Both individuals and business entities selling, soliciting or negotiating crop insurance are required to be licensed. If the state requires appointments or affiliations for other lines of insurance, they are also required for crop.

36. Testing and Prelicensing Education Requirement Resident Applicants

For crop insurance, states may independently determine the need for or extent of prelicensing education ~~independently~~, as well as the content requirements, if prelicensing education is required. States requiring prelicensing education may waive it upon verification of completion of the RMA required 12 hour structured training program.

There will be no testing requirement for limited lines; although, states may choose to test for certain limited lines, such as surety, if a limited line, and crop, as long as content is limited to the subject matter. States requiring testing for crop may waive it upon verification of passing the RMA required basic competency test No state shall require additional pre-licensing education or testing for nonresident applicants or non-resident producers who change their state of residency.

37. Standards for Non-Core limited lines:

A state is not required to implement any non-core limited line of authority for which a state does not already require a license or which is already encompassed within a major line of authority; however states should consider products where the nature of the insurance offered is incidental to the product being sold to be limited line insurance products. If a state offers non-core limited lines such as pet insurance or legal expense insurance, it shall do so in accordance with the following licensing requirements.

- A.) A limited line license for non-core limited lines identified by the Insurance Commissioner may be issued to a person or entity, inclusive of profit and non-profit, who sells solicits, or negotiates the limited line insurance.
- B.) A business entity may act as a Limited Line Insurance Producer if it:
- (1) Has obtained the Limited Lines Insurance Producer License by submitting the appropriate application form and paid all applicable fees as set forth in applicable state law;
 - (2) The business entity has designated an individual Limited Lines Insurance Producer to act as the business entity's Designated Responsible Producer (DRP) and who would be responsible for the business entity's compliance with insurance laws, rules and regulations of the business entity's resident state.
 - (3) The designated individual must meet the requirements for a DRP pursuant to the insurance laws, rules and regulations of the business entity's resident state.
 - (4) The business entity DRP and officers must comply with the fingerprint requirement applicable to insurance producers in the resident state of the business entity; and
 - (5) The licensed business entity keeps a register of each employee that offers Insurance on the licensed business entity's behalf. The licensed business entity shall also certify that the registered employees comply with 18 USC 1033. The licensed business entity shall submit such Register within 30 days upon request by the state insurance department.
- C) An employee of the limited lines insurance producer business entity that offers and disseminates limited line insurance on behalf of the business entity and under the direction of a Limited Line Insurance Producer is not required to be licensed if the employee:
- (1.) Receives a program of instruction or training subject to review by the insurance department prior to receiving permission to operate on behalf of the business entity and under the direction of the DRP; and
 - (2.) Does not receive a commission or compensation that is dependent on the placement of the insurance product.
- D. Individuals who sell, solicit or negotiate insurance or who receive commission or compensation that is dependent on the placement of the insurance product must obtain a limited line insurance producer license. The individual applicant must:
- (1) Obtain the Limited Lines Insurance Producer License by submitting the appropriate application form and paying all applicable fees as set forth in applicable state law; and
 - (2) Receive a program of instruction or training subject to review by the insurance department

E. No prelicensing or testing shall be required for the identified non-core limited lines insurance. All employees offering the products; individuals licensed to sell, solicit or negotiate; insurance producers and all DRP's shall receive a program of instruction.

Definitions for legal expense and pet insurance are provided for guidance and states are encouraged to adopt the same or substantially similar terms.

States may elect to add a miscellaneous limited line to issue a nonresident license for those nonresidents who have requested a line of authority outside the major or core limited lines and not offered by the state. A state must issue the nonresident a license in compliance with GLBA.

38. CE Requirement Resident Producers:

CE will not be required, however, due to federal requirements; states may require CE for Crop authority

SURPLUS LINES STANDARDS

39. Surplus Line Standards:

States shall require an underlying property & casualty license prior to the issuance of a resident surplus lines license.

40. Surplus Line Exam

States may, but are not required to have a surplus line examination.

COMMERCIAL LINE MULTI-STATE EXEMPTION STANDARD

41. Commercial Line Multiple Exemption

The state must adopt Section 4B (6); of the Producer Licensing Model Act which states:
A person who is not a resident of this state who sells, solicits or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract, provided that that person is otherwise licensed as an insurance producer to sell, solicit or negotiate that insurance in the state where the insured maintains its principal place of business and the contract of insurance insures risks located in that state.

This exemption applies at minimum to admitted business.

COMMISSION SHARING STANDARD

42. Commission Sharing

The state must adopt Section 13D of the Producer Licensing Model Act which states:
An insurer or insurance producer may pay or assign commissions, service fees, brokerages or other valuable consideration to an insurance agency or to persons who do not sell, solicit or negotiate insurance in this state, unless the payment would violate [insert appropriate reference to state law (i.e., citation to anti-rebating statute, if applicable)]. Reference to the anti-rebating statute is not exclusive. It may also refer to other state laws which limit the scope.

Appendix A**LIMITED LINES DEFINITIONS (Originally Adopted on 6/10/02. Amended 8/16/10)**

CAR RENTAL – insurance offered, sold, or solicited in connection with and incidental to the rental of rental cars for a period of [insert relevant time period per state law], whether at the rental office or by pre-selection of coverage in master, corporate, group or individual agreements that (i) is non-transferable; (ii) applies only to the rental car that is the subject of the rental agreement; and (iii) is limited to the following kinds of insurance:

- (a) personal accident insurance for renters and other rental car occupants, for accidental death or dismemberment, and for medical expenses resulting from an accident that occurs with the rental car during the rental period;
- (b) liability insurance that provides protection to the renters and other authorized drivers of a rental car for liability arising from the operation or use of the rental car during the rental period;
- (c) personal effects insurance that provides coverage to renters and other vehicle occupants for loss of, or damage to, personal effects in the rental car during the rental period;
- (d) roadside assistance and emergency sickness protection insurance; or
- (e) any other coverage designated by the insurance commissioner.

CREDIT – credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection insurance, or any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation and that is designated by the insurance commissioner as limited line credit insurance.

CROP INSURANCE – Insurance providing protection against damage to crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation, disease or other yield-reducing conditions or perils provided by the private insurance market, or that is subsidized by the Federal Crop Insurance Corporation, including Multi-Peril Crop Insurance.

SURETY – Insurance or bond that covers obligations to pay the debts of, or answer for the default of another, including faithlessness in a position of public or private trust. For purpose of limited line licensing, Surety does not include Surety Bail Bonds.

(OPTIONAL) Surety also includes surety insurance as defined in (insert state-specific reference).

It is recommended that surety be eliminated as a core limited line going forward and states considering surety are encouraged to offer it under the Casualty major line (adopted on 8/16/10)

TRAVEL INSURANCE Amended 8/16/10

Means Insurance coverage for personal risks incident to planned travel, including but not limited to:

- a. Interruption or cancellation of trip or event;
- b. Loss of baggage or personal effects;
- c. Damages to accommodations or rental vehicles;
- d. Sickness, accident, disability or death occurring during travel.

Travel insurance does not include major medical plans, which provide comprehensive medical protection for travelers with trips lasting 6 months or longer, including for example, those working overseas as an ex-patriot or military personnel being deployed.

Recommended Definitions for Certain Non-Core Limited Lines Proposed August 2011

- (1) "Limited Lines Pet Insurance Producer" means an insurer designee, such as a managing general underwriter, managing general agent, or limited lines producer of Pet Insurance.
- (2) "Pet Insurance" means health insurance coverage including but not limited to coverage for injury, illness, and wellness, for pets such as birds, cats, dogs, and rabbits.
- (3) "Legal Expense Insurance" means a contractual obligation to provide specific legal services, or to reimburse for specific legal expenses, in consideration of a specified payment for an interval of time, regardless of whether the payment is made by the beneficiaries individually or by a third person for them, but does not include the provision of, or reimbursement for, legal services incidental to other insurance coverages; or consultation or advice in connection with, or a part of referral services. Legal expenses insurance does not include a retainer agreement directly between the lawyer and the client, where no third party is at risk.

Appendix 4

NAIC's Compendium of State Laws on Insurance Topics - Producer Licensing: Limited Lines

PRODUCER LICENSING: LIMITED LINES

The date following each state indicates the last time information for the state was reviewed/changed. Information contained in this chart was verified by the state departments of insurance. For any questions, please contact the state directly.

States marked with # did not verify the information pertaining to their state.

STATE	Bail Bond Agent	Credit Insurance	Crop/Hail Insurance	Mortgage Insurance	Motor Club	Portable Electronics	Rental Car Insurance	Surety	Title Agent	Travel	Miscellaneous
AL (2/13)		X	X		X	X	X			X	Prepaid dental plan, prepaid legal agent
AK (2/13)		X					X		X	X	Viatical settlement licensee
AZ (2/13)	X	X					X		X	X	Bail enforcement agent (registration only)
AR (2/13)		X	X				X				Farmers mutual, HMO agent, prepaid legal agent
CA (2/13)	X	X			X	X	X		X	X	Auto liability, bail permittee, bail solicitor, cargo shipper's agent and cargo owner's agent, fraternal agent, funeral expense insurance, limited accident and health insurance
CO (2/13)	X	X	X	X		X			X	X	HMO agent, title attorney
CT (2/13)		X		X						X	
DE (2/13)	X	X	X	X	X		X		X	X	Title attorney, title corporation/firm
DC # (2/13)	X	X	X				X	X	X	X	
FL (2/13)	X	X	X			X	X			X	In transit property, industrial fire

PRODUCER LICENSING: LIMITED LINES

STATE	Bail Bond Agent	Credit Insurance	Crop/Hail Insurance	Mortgage Insurance	Motor Club	Portable Electronics	Rental Car Insurance	Surety	Title Agent	Travel	Miscellaneous
GA (2/13)		X				X	X		X	X	In transit property
HI (2/13)		X					X			X	
ID (2/13)		X	X			X		X		X	Pet insurance
IL (2/13)							X			X	Farmer's mutual, county mutual, town mutual, HMO agent, limited accident and health insurance, prepaid legal agent, self-service storage
IN (2/13)	X	X	X	X					X	X	Funeral expense insurance, title corporation/firm
IA (2/13)		X	X				X	X			Viatical settlement licensee
KS (2/13)	X	X*	X	X**		X*	X*			X	Title, pre-need funeral expense insurance Registration only for: prepaid legal agent, prepaid dental plan * Business entities only ** Registration only
KY (2/13)		X	X			X	X	X		X	
LA (2/13)						X		X		X	Viatical settlements licensee

PRODUCER LICENSING: LIMITED LINES

STATE	Bail Bond Agent	Credit Insurance	Crop/Hail Insurance	Mortgage Insurance	Motor Club	Portable Electronics	Rental Car Insurance	Surety	Title Agent	Travel	Miscellaneous
ME (2/13)		X					X		X	X	Auto mechanical breakdown
MD (2/13)		X		X			X		X	X	Auto liability, auto physical damage, HMO agent, title attorney, title corporation/firm, viatical settlement licensee
MA (2/13)		X								X	
MI (2/13)		X	X					X		X	Title, limited life (pre-need funeral policies) Limited lines property & casualty license: marine, legal expense, plate glass, malpractice, livestock
MN (2/13)	X	X		X		X			X	X	Farm property and liability
MS (2/13)		X				X	X	X	X	X	Auto physical damage, industrial fire, limited accident and health insurance
MO (2/13)		X		X						X	
MT (2/13)		X		X							
NE (2/13)		X	X		X		X	X	X	X	Prepaid legal agent

PRODUCER LICENSING: LIMITED LINES

STATE	Bail Bond Agent	Credit Insurance	Crop/Hail Insurance	Mortgage Insurance	Motor Club	Portable Electronics	Rental Car Insurance	Surety	Title Agent	Travel	Miscellaneous
NV (2/13)		X	X			X	X			X	Fixed annuities (incl. indexed annuities)
NH (2/13)		X		X		X	X		X	X	Title attorney, viatical settlement licensee
NJ (2/13)	X	X		X		X	X			X	Limited lines insurance representative, prepaid legal agent, self-service storage, viatical settlement licensee
NM (2/13)		X				X				X	Common carrier, viatical settlement licensee
NY (2/13)						X	X			X	Self-service storage
NC (2/13)		X		X	X	X*	X*			X	Auto physical damage, farmer's mutual, county mutual, town mutual, funeral expense insurance, limited lines insurance representative, prepaid dental plan, purchasing group agent/broker, risk retention group agents, self-service storage* *Business entities only
ND (2/13)	X	X	X					X	X	X	Prepaid legal agent

PRODUCER LICENSING: LIMITED LINES

STATE	Bail Bond Agent	Credit Insurance	Crop/Hail Insurance	Mortgage Insurance	Motor Club	Portable Electronics	Rental Car Insurance	Surety	Title Agent	Travel	Miscellaneous
OH (2/13)		X	X			X	X		X	X	Funeral expense insurance, public insurance adjuster agent, title insurance marketing representative License but not as a limited line license: surety bail bond, title corporation/firm, viatical settlement broker
OK # (2/13)	X	X	X		X	X	X	X	X	X	Prepaid legal
OR (2/13)		X	X			X	X	X	X	X	Auto mechanical breakdown
PA (2/13)		X	X		X	X	X		X		Fraternal agent
PR # (2/13)			X				X	X		X	Variables
RI (2/13)		X	X	X			X	X		X	
SC (2/13)		X	X					X	X	X	Funeral expense insurance
SD (2/13)	X	X		X			X			X	Common carrier, limited lines insurance representative
TN (2/13)	X	X	X		X				X	X	Prepaid legal agent, title attorney, variable contract agent, viatical settlement licensee

PRODUCER LICENSING: LIMITED LINES

STATE	Bail Bond Agent	Credit Insurance	Crop/Hail Insurance	Mortgage Insurance	Motor Club	Portable Electronics	Rental Car Insurance	Surety	Title Agent	Travel	Miscellaneous
TX # (2/13)											Prepaid funeral, life and health counselor
UT (2/13)	X	X	X		X	X	X			X	Guaranteed asset protection waiver, prepaid legal agent, self-service storage
VT (2/13)		X					X		X		Viatical settlement licensee
VA (2/13)		X		X	X	X	X			X	Funeral expense insurance, home warranty, optometric service plans, pet insurance, prepaid dental plans, prepaid legal agent, wet marine
WA (2/13)		X		X			X	X		X	Common carrier
WV (2/13)		X	X	X			X	X		X	Accidental death
WI (2/13)		X	X					X	X	X	Prepaid legal expense
WY (2/13)		X		X	X		X			X	Auto mechanical breakdown, common carrier, fraternal agent, funeral expense insurance, purchasing group agent/broker, risk retention group agents

This chart does not constitute a formal legal opinion by the NAIC staff on the provisions of state law and should not be relied upon as such. Every effort has been made to provide correct and accurate summaries to assist the reader in targeting useful information. For further details, the statutes and regulations cited should be consulted. The NAIC attempts to provide current information; however, readers should consult state law for additional adoptions.