

**STATEMENT OF TOM AHART
ON BEHALF OF THE
INDEPENDENT INSURANCE AGENTS AND BROKERS OF AMERICA**

**SUBCOMMITTEE ON CAPITAL MARKETS, INSURANCE,
AND GOVERNMENT SPONSORED ENTERPRISES**

FINANCIAL SERVICES COMMITTEE

UNITED STATES HOUSE OF REPRESENTATIVES

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Good morning Chairman Baker, Ranking Member Kanjorski, and Members of the Subcommittee. My name is Tom Ahart, and I am pleased to be here today on behalf of the Independent Insurance Agents and Brokers of America (IIABA) and to provide our association's perspective on the role that Congress can play in enhancing and improving state insurance regulation. I am President of Ahart, Frinzi & Smith Insurance Agency, an independent agency based in Phillipsburg, New Jersey, and I served as president of IIABA from September 2001 to September 2002.

IIABA is the nation's oldest and largest trade association of independent insurance agents and brokers, and we represent a network of more than 300,000 agents, brokers, and employees nationwide. IIABA represents small, medium, and large businesses that offer consumers a choice of policies from a variety of insurance companies. Independent agents and brokers offer all lines of insurance – property, casualty, life, health, employee benefit plans, and retirement products.

I. Introduction

Mr. Chairman, on behalf of the IIABA, I want to express our association's strong support for the conceptual approach to insurance regulatory reform that you have developed with Chairman Oxley. In our view, the Oxley/Baker roadmap, which calls for the targeted and focused use of federal legislation to modernize the core areas of state insurance regulation, offers legitimate hope for the first time that enactment of national regulatory reform may be possible to the benefit of consumers across the country.

I commend the subcommittee and full committee for their continued interest and diligent work on the challenges facing our longstanding system of state insurance regulation. Nearly two years ago, I first had the opportunity to address this subcommittee and outline our association's strong opposition to the creation of a federal regulatory structure and our alternative vision for securing meaningful and effective reform of state insurance regulation. Since that time, you and your colleagues have carefully and thoroughly examined the failings of insurance regulation over the

course of more than a dozen hearings. Those efforts have highlighted the lack of uniformity and consistency that exists among the states, the unnecessary regulatory hurdles that insurers and agents face, and the negative effects that the current system has on competition and consumer choice within the financial services world. Finally, your work has examined and identified the areas of state insurance regulation that are most in need of reform – agent/broker licensing, insurer licensing, insurance product (rates and forms) regulation, and market conduct.

When I testified before this subcommittee in 2002, I explained that our association strongly supported state regulation of the insurance industry – and we remain committed to that overarching principle today. IIABA believed then, as we do today, that state insurance regulation should be preserved and strengthened, but we recognized that the states were unlikely to resolve their problems on their own in a timely manner. For this reason, I urged Congress to utilize targeted federal legislation to address the components of the state system that had failed while not jeopardizing consumer protection in any respect. IIABA has continued to promote this pragmatic approach to reform among our industry colleagues and partners, and we are pleased that a broad array of insurers and insurance producers now support it.

II. IIABA's Support for Targeted Reforms

IIABA's perspective on insurance regulatory reform is well-known and has remained consistent throughout this subcommittee's consideration of these issues. We oppose federal regulation of insurance for the substantive and political reasons that have been outlined in our previous testimony. Instead, our organization supports the enactment of targeted and limited federal legislation that builds on, rather than dismantles, the states' inherent strengths to meet the challenges of our rapidly changing marketplace. Although we strongly support state insurance regulation and the consumer protections it inherently provides, we believe there is an urgent need to address the deficiencies and inefficiencies that exist in the system today. In our view, the most effective way to obtain these needed reforms is through the focused use of federal legislative action.

The enactment of federal legislation to address the problems with state regulation today is not a radical concept. Congress proved that such an approach can work when it passed the NARAB provisions of the Gramm-Leach-Bliley Act. This reasonable approach offers an opportunity to address the legitimate criticisms lodged against the current system and would improve and enhance state insurance regulation without replacing it altogether. There is widespread consensus among observers – including state and federal legislators, regulators, and the insurance marketplace – that insurance regulation needs to be updated and modernized, and congressional action can quickly bring about reforms that have been sought by state policymakers for years. The states face considerable collective action challenges in enacting consistent statutes in all jurisdictions, and Congress can assist their efforts by implementing key reforms nationally. There are only a handful of regulatory areas where uniformity and consistency are imperative, and Congress has the ability to address each of these core issues on a national basis in a single legislative act.

Congress's work in this area need not jeopardize or undermine the knowledge, skills, and experience that state regulators have developed over decades. While IIABA believes such a

proposal must modernize those areas where existing requirements or procedures are outdated, it is important to ensure that this is done without displacing the components of the current system that work well. The goal should be to establish more consistent requirements and regulatory procedures and ultimately create a more efficient, modernized, and workable system of state insurance regulation. We believe Congress can, and should, help state policymakers create a more uniform and market-oriented system on a national basis while preserving and strengthening the regulatory infrastructure at the state level. In this way, we can assure that insurance regulation will continue to be grounded on the proven expertise of state regulators.

III. Regulatory Reform Roadmap

Two weeks ago, Chairman Oxley provided his and Chairman Baker's vision for reform in a speech before the National Association of Insurance Commissioners (NAIC) entitled "Roadmap to State-Based Insurance Regulatory Reform." At that time, Chairman Oxley outlined a conceptual foundation for targeted federal legislation that would address the problems in state insurance regulation identified by this subcommittee over the last three years. Our association strongly endorses the roadmap's conceptual approach to reform. We were very pleased to hear Chairman Oxley say that the committee is not contemplating an optional federal charter and will not create a federal regulator or a dual federal-state regulatory system.

With the development of this initial roadmap, the subcommittee and full committee's examination of insurance regulation has left the investigation and study stage and has progressed to the policy development and action stage. To paraphrase Winston Churchill, the subcommittee's efforts in this area have reached the "end of the beginning." The Oxley/Baker blueprint provides an excellent starting point for the discussions that will follow, and we look forward to working closely with the committee on the details of any future legislative proposal. In our view, this conceptual framework is the most effective and appropriate manner in which to obtain overdue reforms, and we are pleased that interested parties are quickly lining up to support the targeted use of federal legislative tools.

The roadmap outlines a series of policy goals and objectives, and many of the items included are similar to ideas that IIABA has contemplated in recent months. These goals address the major areas in need of reform – licensing and access to the marketplace, product regulation and review, and market conduct. As you continue consideration of the goals of future legislation and also begin to develop the mechanisms for obtaining the stated objectives, we thought it would be appropriate to again outline our vision of how a congressional proposal could address the major issues of the day. We have done so below.

Property-Casualty Product Regulation

The need for "speed-to-market" reform is profound on the property and casualty side of the insurance industry, where insurers are required to obtain formal regulatory approval for products before introducing a new rate or form into the marketplace. Many states currently regulate the development and introduction of new products in ways that cause significant and unnecessary delays, undermine the forces of competition, and create affordability and availability problems

for consumers. These unnecessary delays and inefficiencies mean that insurers and their agents cannot be as responsive to their consumers as they desire to be.

IIABA believes that Congress should adopt a series of reforms in this area that have four primary effects: (1) make product oversight more market-oriented; (2) provide for the quicker development and introduction of new insurance products; (3) reduce or eliminate unnecessary duplication within and among states; and (4) create greater accountability. Specifically, our association hopes to secure the following outcomes with respect to these goals:

- All states should articulate and specify the standards that apply to the consideration of new policy forms, and all jurisdictions should eliminate so-called “desk drawer rules” that are not rooted in enacted legislation or properly promulgated regulations.
- All states should accept filings from insurers via an electronic single point-of-filing system, such as the NAIC’s System for Electronic Rate and Form Filing.
- All states should utilize a common process for the review of new policy forms (whether for commercial or personal lines of insurance). Under such a system, every state could be required to take action on a newly filed form within 30 days. If the form is not acted upon within the 30-day window, then it would be deemed approved. If the form is ultimately disapproved, then the relevant state regulator would be obligated to clearly and specifically disclose the statutory or regulatory basis for the disapproval.
- Finally, states should rely on the forces of competition to establish insurance rates, eliminate the ability of regulators to establish prices, and continue to ensure that all insurance rates are neither discriminatory nor inadequate. This model for regulation has worked well in Illinois for years and more recently in a growing number of other jurisdictions, such as South Carolina.

Life Insurance Product Regulation

With regard to life insurance product oversight and consistent with the Oxley/Baker blueprint for reform, IIABA supports efforts to ensure the nationwide adoption of the NAIC’s Interstate Insurance Product Regulation Compact. This proposal would provide product standards for life insurance products and provide a central point of filing for insurers. The adoption of the interstate compact proposal has been a priority for many in the insurance marketplace and for such policy groups as the NAIC, the National Conference of Insurance Legislators (NCOIL), and the National Conference of State Legislatures (NCSL). Unfortunately, the compact proposal has only been adopted in a very small number of states to date.

Agent/Broker Licensing

Insurance producers of all kinds – whether operating in large commercial centers or small communities – face unnecessary bureaucratic hurdles that are imposed by distinct and often idiosyncratic licensing laws. Although most states have now enacted licensing reform statutes that provide reciprocity to licensed agents and brokers, various burdens and difficulties remain.

Several of the larger states still have not enacted licensing reciprocity, and many of the states that did pass licensing reform deviated from the NAIC's model law. The resulting lack of uniformity and consistency among the states makes compliance a challenge, and states still differ dramatically in the manner in which they handle nonresident licensing and renewals.

In order to enhance and improve the licensing environment facing agents and brokers, IIABA urges the subcommittee to consider the following licensing reforms:

- National licensing reciprocity – We urge the subcommittee to expand the Gramm-Leach-Bliley Act's reciprocity mandate to all states and establish a nationally reciprocal licensing structure in the process. Similarly, federal legislation should be used to preempt nonresident continuing education requirements and other requirements that have the effect of limiting or conditioning a nonresident's activities solely because of that person's residence or place of operation.
- Licensing uniformity – Additional uniformity is necessary in certain licensing areas, and a targeted federal proposal should help establish greater multi-state licensing consistency for agents and brokers.
- Countersignature laws and other restrictive barriers – IIABA seeks the outright preemption of all remaining mandatory countersignature laws and similar barriers to effective multi-state commerce.
- Background checks – IIABA also supports the enactment of the background check provisions that were included in H.R. 1408 as adopted by the House during the last Congress. The protections and safeguards that were contained in H.R. 1408 struck the appropriate public policy balance and should be included in any new legislation.

Insurer Licensing

Agents and brokers are not the only insurance entities that face challenges obtaining access to new jurisdictions, and insurance companies often face similar burdens. Consumers are best served by a healthy and vibrant marketplace with numerous competitors, and insurers should not face unnecessary delays and costs when attempting to enter new states. For this reason, we support a move toward a nationally uniform set of standards or a common process for licensure that would apply in every jurisdiction.

Market Conduct

Both Congress and state policymakers have identified the market conduct area as one of the aspects of insurance regulation most in need of modernization, and IIABA agrees that action in this area is warranted. We suggest that Congress examine the model law recently adopted by NCOIL and apply it nationally. Many states do not have a statutory foundation for their market conduct oversight activities, and the new model is intended to establish that formal framework. The model outlines a procedure for performing regular market analysis to determine patterns of

misconduct, establishes a continuum of market conduct actions, creates protocols and procedures for onsite exams, and promotes uniformity and coordination among the states.

Dispute Resolution Mechanism

If Congress were to enact a law based on the goals and objectives contained in the recently released roadmap, IIABA recognizes that some mechanism is necessary to address disputes that might arise under the act. For example, if standards are established or preemption is utilized, then some arbiter will likely be needed to determine whether the states are acting in a manner consistent with the new federal law. IIABA believes any such process or mechanism must be limited in its power and authority and should be obligated to act quickly and effectively. In addition, any structure that is established must not become a backdoor federal regulator.

Perhaps more than in any other area, IIABA is interested in working with the committee on this portion of a proposal, and we look forward to working closely to ensure that no federal entity takes on any formal regulatory or licensing power and that the courts retain their final authority to judge disputes that arise under any future act.

IV. Conclusion

This subcommittee's productive and thoughtful work over the last three years has highlighted the flaws that exist with state insurance regulation, and it has showcased the need for timely action. In order to serve consumers effectively and to compete with other financial services offerings, insurance providers must have efficient access to state marketplaces and the ability to develop and introduce products in a timely fashion. For the first time, the Oxley/Baker roadmap offers hope that meaningful reforms can be enacted that address existing inefficiencies, barriers to efficient competition, and the lack of multi-state uniformity. We believe the framework identified in the roadmap is the most effective way to bring about such reforms at the state level and that the use of targeted federal legislation will bring about greater consistency and other needed reforms across state lines.

The Oxley/Baker roadmap offers an excellent starting point for beginning the discussion of how to reform and strengthen state insurance regulation. The IIABA strongly supports the state-friendly vision of regulatory reform articulated by Chairmen Oxley and Baker. Using targeted federal legislation makes good sense because it can be applied to nearly every important area of state insurance regulation and different legislative tools can be utilized in a tailored fashion on an issue-by-issue basis. There are no one-size-fits-all solutions, and this committee and Congress will have the opportunity to make use of the wide variety of legislative tools at its disposal in a way that strengthens and preserves state insurance regulation.

IIABA again commends this subcommittee for its efforts, thanks Chairmen Oxley and Baker for the development of their blueprint, and looks forward to working in partnership with all interested parties on the development of a formal legislative proposal.