

COMMENTS ON BUSINESS ENTITY LICENSING STANDARDS

TABLE OF CONTENTS

Michigan Comments	1
Oklahoma Comments	4
Texas Comments	5
Washington Comments.....	7

Michigan Comments

Draft of August 18, 2011

Revision marks reflect proposed changes from 11-8-10 Draft.

BUSINESS ENTITY LICENSING STANDARDS

40. Business Entity Licensing

States have the discretion to require business entities to obtain insurance licenses, but any state that does so shall adhere to the standards outlined in this section. (NOTE: States will need to be aware that standards have been adopted or are under consideration for certain limited lines that will require only an entity license with no individual licenses)

Michigan is not in agreement with allowing an unlicensed individual to sell, solicit or negotiate (distribute) insurance under a business entity license. Michigan believes that this is in direct contradiction with the PLMA and uniformity and is not comfortable with this direction. Any person selling, soliciting or negotiating the sale of an insurance product, whether limited line or major line, is required under the PMLA to be licensed.

41. Licensing of Business Entities by Line of Authority for Major Lines

States shall not require the licensing, registration, or appointment of business entities by line of authority.

It is important that business entities and ultimately insurers themselves be held accountable for the lines of business they wish to produce and/or sell. The only way to truly monitor and hold business entities accountable is through the licensure, registration, and appointment of business entities by line of business. To remove this requirement allows ignorance to be an acceptable explanation for failing the public. To assume that individual producers or insurers will ensure that the business entities have the ability and knowledge to sell a product is optimistic. Licensing, registration, and appointment of business entities are necessary in order to hold business entities accountable for the knowledge required to serve the public in a responsible manner.

42. Business Entity Branches

States shall not require the licensing, registration, or appointment of individual branch locations that operate under the same FEIN as the home office or require a designated responsible producer to be onsite at a branch location at all times.

In order to adequately monitor the activity of an agency, and provide accurate information about agency operations to the general public, the state should have the ability to require that branch offices operating under the same FEIN number be registered as a branch of the main office location.

43. Designated Responsible Producers

States may require an entity's designated responsible producer (DRP) to possess an individual insurance producer license, but states shall not require a DRP to be an officer of the business entity or hold licenses for the same lines of authority as the entity itself.

The DRLP(s) is responsible for agency compliance with state regulations and should be licensed and knowledgeable for each line of authority that the agency is licensed for selling.

Additionally, Michigan believes that the standards should address what the responsibilities of the DRLP will be.

44. Affiliation Filings

States may require each licensed business entity to maintain a list of its affiliated producers and make it available to regulators upon reasonable request, but states shall not require the filing or ongoing reporting of such affiliations until an electronic process is developed. This standard is not applicable if a state does not require reports of affiliations.

Michigan strongly believes the reporting of affiliations is important for public protection and the updating of the affiliations is necessary. Understanding the abilities and motivations of business entities are great indicators on how or why the public may be harmed. Consumer protection is the basis of all insurance regulation. Business affiliations accurately reflect and define the motivations of business entities and reflect the tone at the top. The ability to avoid proven bad actors or bad affiliations is essential to protecting the public. Affiliations assist in the tracking of individuals who move from agency to agency and have continuous bad practices and administrative actions. This speaks to the necessity of assessing risks and protecting the public.

Or: 44. Affiliation Filings

States requiring the reporting of affiliations must do so utilizing an electronic process. Note: This standard is not applicable until a uniform electronic process is developed.

While we recognize that the process can be cumbersome, however, we cannot allow the nature of the task to dilute each states responsibility to protect the public. We believe the use of an electronic appointment process can provide great efficiency to the appointment process. That said, the mode of delivery should not be included in the standard as a requirement. Electronic processing of affiliations would benefit both the industry and the states; however, if a current state statute requires the filing of

affiliations, the standards would force that state out of compliance until they are able to obtain an electronic process. At the end of the day, if the individual state's statute requires affiliation filings, it has deemed this to be important information and the method of delivery is irrelevant.

45. Organizational and Other Filings

Nonresident states shall not require business entities to submit organizational documents, filings related to officers and directors, proof of financial responsibility, or similar documents.

Michigan would like to see this standard clarified. States will need to obtain documentation relating to the background questions on the uniform application.

46. Corporate Registration

Nonresident states shall not require a business entity to register as foreign corporation as a condition of obtaining or maintaining a nonresident insurance license.

Michigan would also like to see this standard clarified. Although, we will not require registration as a condition to obtain or maintain a license, it is still a state requirement that a foreign entity register to do business in this state. Note, the terminology "corporation" should be changed to entity in order to include other business types.

47. Appointment of Business Entities

States that require business entities to be appointed shall not also require the appointment of individual producers affiliated with the business entity provided that the appointment of the business entity covers the affiliated individuals.

This is in direct conflict with standard 41.

Again, we strongly believe that a business entity's appointment or licensure cannot be a blanket approval for everyone within the agency. This speaks to protecting both insurers and consumers.

General Comments

The proposed standards are an extremely watered down version of Michigan's current statute and requirements. As proposed here, the standards handcuff the state's ability to affectively regulate business entities. By placing the requirements at the recommended levels, this in essence removes the statutory tools to identify and discipline bad actors and to effectively monitor those working in the industry.

Licensing, appointments, affiliations and protection of the public go hand in hand with risk assessment. Risk focused exams are based on the players involved and the policies and procedures in place. The NAIC, the PLWG and the states are the protectors of the public. While moving toward uniformity and efficiency, we must remember the purpose for which regulation is crafted and maintain the integrity of that

regulation while working with the industry to streamline regulatory processes. Michigan cannot stress enough our belief that the proposed standards will dilute the regulatory safeguards in place to the detriment of our citizens.

W:\National Meetings\2011\Fall\TF\PLTF\BE Comments MI.doc

Oklahoma Comments

Business Entity Licensing Standards

September 28, 2011

47. Appointment of Business Entities – States that require business entities to be appointed shall not also require the appointment of individual producers affiliated with the business entity.

The Oklahoma Insurance Department strongly opposes the proposed Standard 47. In Oklahoma, an insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. 36 O.S. § 1435.15(A). Oklahoma law requires appointments for both individuals and business entities. Appointing both individuals and business entities ensures regulatory supervision over all; the individual, who actually sells, solicits or negotiates insurance and the business entity that enters into contractual relationships and receives commissions from insurers.

In each situation, an appointment is necessary because the insurer is responsible for the actions of both the individual and the business entity who are acting as its agents. This allows regulators to track the relationship insurers have with both the individuals and the business entities acting on the insurers' behalf. The two are not mutually exclusive.

Additionally, consumers have the right to know what companies the individual selling, soliciting or negotiating insurance to them represents. This will be impossible if state regulators are unable to share this information with consumers. Oklahoma believes strongly that allowing individuals to sell insurance while unappointed leaves a regulatory hole permitting unfettered activity of potential bad players which can not be scrutinized for enforcement purposes.

Texas Comments

Draft of August 18, 2011

Revision marks reflect proposed changes from 11-8-10 Draft.

BUSINESS ENTITY LICENSING STANDARDS

[Texas Comments:](#)

40. Business Entity Licensing

States have the discretion to require business entities to obtain insurance licenses, but any state that does so shall adhere to the standards outlined in this section. (NOTE: States will need to be aware that standards have been adopted or are under consideration for certain limited lines that will require only an entity license with no individual licenses)

[Texas Insurance Code §4001.106 requires the entity license have a DRLP individually licensed.](#)

41. Licensing of Business Entities by Line of Authority for Major Lines

States shall not require the licensing, registration, or appointment of business entities by line of authority.

[Texas Insurance Code §4001.106, §4001.201, and §4001.251 .](#)

42. Business Entity Branches

States shall not require the licensing, registration, or appointment of individual branch locations that operate under the same FEIN as the home office or require a designated responsible producer to be onsite at a branch location at all times.

[Texas Insurance Code §4001.106, and the Texas Administrative Code §19.902.](#)

Texas requires the registration of Branch offices. Texas only requires a licensed producer to do business on behalf of the Entity at each Branch location.

43. Designated Responsible Producers

States may require an entity's designated responsible producer (DRP) to possess an individual insurance producer license, but states shall not require a DRP to be an officer of the business entity or hold licenses for the same lines of authority as the entity itself.

[Texas Insurance Code §4001.106.](#)

The Texas code requires at least one officer or one partner hold the same license and authority as the Entity. Generally speaking in Texas, the one licensed officer is the DRLP. One officer does not necessarily have to hold all the license types and authorities as the Entity so long as all of the lines of authority are held by licensed Officers.

44. Affiliation Filings

States may require each licensed business entity to maintain a list of its affiliated producers and make it available to regulators upon reasonable request, but states shall not require the filing or ongoing reporting of such affiliations until an electronic process is developed. This standard is not applicable if a state does not require reports of affiliations.

[Texas Insurance Code §4001.205.](#)

Texas already allows online submissions for appointments.

Or: **44. Affiliation Filings**

States requiring the reporting of affiliations must do so utilizing an electronic process.

Note: This standard is not applicable until a uniform electronic process is developed.

[Texas Insurance Code §4001.205.](#)

Texas already allows online submissions for appointments.

45. Organizational and Other Filings

Nonresident states shall not require business entities to submit organizational documents, filings related to officers and directors, proof of financial responsibility, or similar documents.

[Texas Insurance Code §4001.106, and §4001.252.](#)

46. Corporate Registration

Nonresident states shall not require a business entity to register as foreign corporation as a condition of obtaining or maintaining a nonresident insurance license.

Texas is in compliance with this based on recent legislation.

47. Appointment of Business Entities

States that require business entities to be appointed shall not also require the appointment of individual producers affiliated with the business entity provided that the appointment of the business entity covers the affiliated individuals.

Deleted: by NI

Deleted: the

Deleted: deve

Deleted: by NI

Texas appointment laws comply unless the Individual producer acts as an agent on his/her own behalf and not directly on behalf of the licensed entity.

W:\National Meetings\2011\Fall\TF\PLTF\BE Comments TX.doc

Washington Comments

To: Roger Sevigny, Chair, Producer Licensing Task Force
From: Jeff Baughman, Licensing & Education Program Manager
State of Washington

Subject: Solicitation of Comments of Business Entity Licensing standards

Mr. Sevigny;

In the PLTF Conference call held September 12, 2011, you had suggested that the business entity licensing standards be redistributed for comment prior to these standards being adopted at the next PLTF/NAIC meeting. Washington State is submitting these comments on the proposed standards.

Item 42 – Business entity branches

WA law requires branch locations to be licensed. If a BE's main office is in Seattle, and has branch locations in Tacoma and Olympia, the BE pays for three licenses. Each location has the same FEIN number, the same name, the same license number, but each license prints out with the specific location.

Washington has always viewed a "branch" as being a secondary location of a **resident** business entity **within the state of WA**.

Perhaps what should be added to Item 42 is a uniform definition of "branch location." Explanation of what the industry considers to be a branch location is much different. For example, it has routinely been explained to my staff that an agency has its' main location in Baltimore, MD, but has a branch location in another state. If a uniform definition of "branch location" is added, it would put everyone's interpretation on the same page. If this standard is adopted as written without defining "branch location," it could be interpreted that, in the example used earlier, only MD could license the business entity and that all other "branch locations" in any other state need not be licensed.

Item 44 – Affiliation filings

Washington is an affiliation state. This standard has been written two different ways: 1) that list of affiliated producers must be maintained by the BE and make it available to regulators upon request but not until an electronic process is developed, or 2) states requiring the reporting of affiliations must do so utilizing an electronic process.

Washington State has an electronic affiliation process in place which is available to any licensed resident or non-resident BE. A fee is required to affiliate a producer to a BE but there is no fee to terminate an affiliation. We would support Item 44 if the verbiage of 2 is adopted.

NIPR has not developed an electronic process for affiliations since it is not utilized by a majority of states. Would WA be considered as meeting Item 44 if we have our own electronic process for affiliations?

W:\National Meetings\2011\Fall\TF\PLTF\BE Comments WA.docx