NARAB II SIGNED INTO LAW

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In February 2000, the NAIC adopted the Producer Licensing Model Act (#218) to help the states comply with GLBA’s reciprocity provision. Subsequently, the NAIC membership determined a majority of states had satisfied the GLBA reciprocity requirements. As a result, the GLBA version of NARAB was not created. However, while the licensing process was made easier over the years (e.g., with advancements in technology and the use of the National Insurance Producer Registry²) the nationwide uniformity and reciprocity for insurance producer licensing desired under GLBA was never fully realized. Several large states have not yet become reciprocal.

The absence of these major markets inhibited the implementation of national licensing reciprocity and the ability of agents to obtain nonresident licenses in all 50 states. This led to renewed calls for NARAB and new versions of the bill have been introduced many times in the U.S. Congress over the past 15 years (Figure 1 on the following page).

♦ NARAB II

The recently enacted National Association of Registered Agents and Brokers Reform Act of 2015 amends the federal law that was part of the GLBA but never came into effect. For this reason, it is often referred to as NARAB II. It creates NARAB as an independent, non-profit corporation controlled by its board of directors. NARAB will act as a central clearinghouse allowing an insurance producer licensed in his/her home state to sell, solicit or negotiate in every other state in which the producer intends to do business, provided the producer is licensed for those lines of business in his/her home state and pays the state’s licensing fee.

NARAB II eliminates the need for insurance producers to apply for nonresident licenses; i.e., a producer will be able to become a member of NARAB and thereafter be able to become authorized to act as a producer in other states, without the need to meet the licensing requirements of those states. The stated purpose of the legislation is to provide “a mechanism through which licensing, continuing education, and other nonresident insurance producer qualification requirements and conditions may be adopted and applied.

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♦ PRODUCER LICENSING AND NARAB

People who wish to sell, solicit or negotiate insurance in the United States must be licensed as a “producer.” The term producer includes insurance agents and insurance brokers. There are currently more than 2 million individuals and more than 500,000 business entities licensed to provide insurance services in the United States. State insurance departments oversee producer activities as part of a comprehensive regulatory framework designed to protect insurance consumer interests in insurance transactions.

Traditionally, a producer must have a license from his/her home state and then must obtain nonresident licensing in other states in order to sell, solicit or negotiate insurance in such other states. Prior to the late 1990s nonresident licensing was done via paper forms because Web-based processing was still in its infancy. Producers licensed in one state generally had to meet the separate licensing requirements for each state in which they wanted to sell insurance. While the licensing requirements in each state were similar, there were differences in the application and review process. This became administratively burdensome as it imposed significant time and monetary costs on producers, their affiliated agencies and each state insurance department.

A provision in the federal Gramm-Leach-Bliley Act of 1999 (GLBA) sought to streamline producer licensing by requiring the states to enact certain reforms to the nonresident insurance producer-licensing process. The provision was designed to create a new organization called NARAB if greater state producer-licensing uniformity or reciprocity was not achieved by November 2002.¹ The GLBA enactment sparked a nationwide movement to implement sweeping reforms to simplify and bring more efficiency to the producer-licensing process.

¹ The GLBA required at least 29 jurisdictions to achieve the prescribed goals of producing licensing uniformity and reciprocity by November 2002 to preclude the creation of NARAB.
² The NIPR was established by the NAIC as a nonprofit affiliate in 1996 to develop and operate as a national repository for producer-licensing information. The NIPR is part of an ongoing effort to streamline and modernize the various processes involved with producer licensing. It is an electronic system that tracks ongoing licensing changes from state to state. Currently, the NIPR receives data from all 50 states, Puerto Rico and the District of Columbia.
plied on a multi-state basis without affecting the laws, rules, and regulations, and preserving the rights of a State, pertaining to certain specific producer-related conduct.

Here’s how it works:

- NARAB will exist as a new non-governmental, membership-based agency formed in the District of Columbia as an independent nonprofit corporation. NARAB will likely establish a portal, mechanism, or central clearinghouse that enables individuals and business entities to satisfy membership requirements that will allow market access in nonresident states.

- NARAB will be governed by a 13-member board of directors (subject to presidential appointment and Senate confirmation), consisting of eight current or former U.S. state insurance commissioners and five insurance industry representatives with professional expertise in producer licensing. The law specifies NARAB’s board of directors shall be appointed by the president within 90 days of its enactment. One of the state insurance commissioners appointed will be designated to serve as the board’s initial chairperson. The board of directors will not be compensated.

- NARAB is not funded with federal funds. The board of directors will establish and collect membership fees to cover the costs of its operations. These fees are not yet determined and will be established by the board.

- Through NARAB membership, a producer may obtain authority to do business outside his/her home state. An individual or entity licensed in his/her home state can obtain licensing in all 50 states by becoming a member of NARAB.

- Membership and participation in NARAB is entirely optional and voluntary; producers are not required to become NARAB members. Producers may continue to obtain their licenses state by state if they wish to do so. However, a producer or entity must first become a member of the organization in order to take advantage of its benefits. Once approved for membership, a producer may use NARAB to obtain the authority needed to operate in any jurisdiction and do so in an efficient manner.

* NARAB II “doesn’t pass” denotes NARAB was passed in the House on these occasions, either as a stand-alone measure or as part of other reforms, but did not pass in the Senate.

• To become a member of NARAB, an insurance producer must be licensed in his/her home state, not have an active license suspension or revocation in place at the time of application, successfully pass a criminal background check and pay membership fees (which will be established by the NARAB board of directors).

• Once NARAB accepts the membership application from a qualified producer, the producer is authorized to engage in producer activities (i.e., the sale, solicitation, and negotiation of insurance) in that jurisdiction, provided the producer is licensed for those lines of business in his/her home state and pays the state’s licensing fee.

• The states generally will not be able to impose additional market access or discriminatory requirements on nonresident producers. Nonresident jurisdictions may not impose any licensing, application, or market entry-related requirements on NARAB members. The states are also prohibited from requiring any NARAB member to register as a foreign corporation.

• The new law requires NARAB to establish continuing education (CE) requirements as a condition of membership that are comparable to the CE requirements of a majority of states.

• NARAB is granted some disciplinary enforcement powers. However, state regulators will continue to regulate marketplace conduct, oversee the actions of producers, investigate complaints, protect consumers, and take action against those who violate the law.

• The provisions of the bill take effect on the later of: 1) the expiration of the two-year period beginning on the day of the enactment of NARAB; or 2) once NARAB is incorporated.

**CONCLUSION**
Over the past 15 years, state insurance regulators have made great strides in streamlining the producer-licensing process and advances in technology have eliminated many of the hurdles. The recent establishment of NARAB is a significant step to help simplify insurance producer licensing in the United States. However, there is considerable work that must be completed in order to establish a successful NARAB. Once the board of directors is formed, it will need to raise capital to get the organization up and running, hire staff and establish standards and procedures for admission of members/producers.

On March 27, 2015, the NAIC submitted a list of recommendations to the President for the eight state insurance positions.¹ The recommendations included state insurance commissioners who expressed interest in serving on the NARAB board of directors, and comprised a diverse geographic and political cross section of commissioners with the necessary expertise and commitment to effectively carry out the responsibilities. The CIPR will continue to provide additional updates on NARAB II as information becomes available.

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¹ www.naic.org/documents/government_relations_150329_statement_naic_narab_board_recommendations.pdf
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