



Advisor Newsletter

(Monthly Newsletter of the Florida Association of Insurance and Financial Advisors)

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LEGISLATIVE AND REGULATORY REPORT

by Timothy J. Meenan, FAIFA Lobbyist

IMPORTANT NOTICE: DFS Delays Enforcement of Agency Registration/Licensing Requirement Until November 1 -- Cites High Volume of Calls and Other Issues

In an Informational Notice issued on Friday, September 29, the Department of Financial Services has announced that it will “forego the imposition of administrative fines until November 1, 2006” for those filing late applications for insurance agency (which can include individual insurance agents) licensure or registration.

The DFS does not have the authority to extend the October 1, 2006 statutory deadline for filing applications, but they do have “discretion concerning the imposition of administrative fines,” according to the Notice, which has been posted to the DFS website (www.fldfs.com). The DFS has received thousands of applications and an “extremely high volume of callers” who need advice and instruction on how to complete the online application process.

We have been screaming from the tree-tops for our members to comply with the new agency licensure or registration law. It’s a free, simple process, and you must have your place of business licensed or registered by October 1, 2006. Additionally, if you have other locations where you routinely conduct insurance agent activities, like your house, you must register or license that location, as well. Fines are up to \$10,000 for an agency which fails to comply. You may either license your agency or you may register it, if your agency is completely owned by licensed agents.

Many agents think that because they don’t have a corporation, or are a sole proprietorship, or because they work from home, they are exempt. They are wrong and may be forced to pay substantial fines if the DFS takes action. Please go onto www.fldfs.com and work through the process to “agent and agency regulation” and follow the prompts from there. **IMPORTANT NOTE:** Go through the agency license portals, not the individual portals, to get to the proper spot to enter information on your agency.

Insurers Trying To Comply With Freedom to Travel Act

The 2006 Florida Legislature enacted the “Freedom to Travel Act” which requires insurers to demonstrate that individuals who travel are a separate actuarially-supportable class before an insurer may refuse, deny, or limit insurance coverage based upon that travel. The Office of Insurance Regulation (OIR) has interpreted the act as granting the OIR “prior approval” authority before a life insurer may implement its program to restrict or deny life

insurance to travelers. The act's wording was not designed to work this way, and the life insurance industry has obtained letters from both the sponsors of the bill which indicate that prior approval was not a goal of the legislation.

The intent of the bill was to prohibit the use of past lawful travel being used as a basis for denying travel, in addition for requiring insurers to use sound actuarial principles in denying future travel. Several insurers have made application to the OIR to implement the provisions of the act, but none have had their actuarial projections approved. FAIFA will continue to review this situation.

If any agents are losing a market due to this issue, please send an e-mail to the FAIFA office (ashley@faifa.org) with specifics, as we will utilize this information to press for amendments to the act, if necessary, during the 2007 Florida legislative session.

Special Session Now Not Likely Until After November Elections

While the Governor and Senate leaders were pushing for a special session on property insurance issues in October, it is now very unlikely to occur. No special session will occur unless the House, Senate, and Governor agree on a package of reforms which can be enacted. Meanwhile, the Governor's task force on property insurance issues, led by Lt. Governor Toni Jennings, continues its work. Proposals of this group include lowering the CAT fund retention on a voluntary basis, requiring CPIC to only sell "full coverage" policies and stop offering wind-only coverage, earmarking mitigation funds for Citizens policyholders and forcing Citizens policyholders to bring their homes into compliance with the statewide building code, requiring Citizens to file rates quarterly, increasing dollars available for mitigation, and numerous other changes. It is not guaranteed that these issues will be addressed in special session at all, but Governor Bush is strongly in favor of making such changes prior to his leaving office.

Of note, Citizens agent commissions are definitely under consideration for being reduced. How much, exactly, is an issue and FAIFA is fighting this concept hard. FAIFA agents must contact their state legislators now to be heard on this important issue. In other property news, Bob Ricker, CEO of Citizens, has resigned effective year end.

Regulators Consider Rule Forcing Homeowner Specific Mitigation Information

Pushed by the Governor, the OIR is attempting to craft rules forcing insurers to quote specific insurance premium credits available to every homeowner based upon various mitigation efforts to upgrade their homes. Insurers are balking due to the complexity of this concept. Attempting to program their computers to consider the exact building characteristics of every existing home, and the amount of credit for various mitigation upgrades, is an almost impossible task. One idea is to require insurers to make available a "web site mitigation credit quoter" that allows policyholders to accurately calculate the credits they will receive for making various home upgrades. Insurer's main argument is the cost of developing an accurate system would be astronomical, and that the job of giving these estimates to consumers is the province of the insurance agent.

At a minimum, the OIR is attempting to develop a standard form for use by insurers to simplify the task of letting policyholders know what insurance credits they receive. Another idea is to have the OIR fund a central mitigation savings calculator on the OIR website for standard credits, and which would be more uniformly applied. This is a controversial issue, and currently is being driven by the Governor who does not believe the current levels of credits are high enough.

Legal Expense Insurance To Be Sold By Life Agents...Maybe

Legislative language to amend laws governing legal expense insurance coverage has surfaced in Tallahassee. Currently only a licensed property and casualty insurance agent may sell this product. The language reviewed by FAIFA would expand that to allow life insurance agents to also sell this regulated product. It is our inclination that this would be a good change, and would bring another product to the table for life insurance agent members. While no legislation has been filed, we will keep FAIFA members updated on this new development.

Long Term Care Partnership Rule Making

The OIR will be holding rulemaking proceedings to develop rules implementing the Long Term Care Partnership Program in Florida. FAIFA is concerned with the slow pace of progress on this important issue, but supports the OIR's efforts to move this forward. The hearing will be held October 9, 2006 at the OIR in Tallahassee at 1:00 P.M. No rule draft is available yet; FAIFA will keep you posted.

New Mandate Surfaces

With advances in medicine, various drug manufacturers have developed vaccines to prevent the onset of Human Papillomavirus (HPV) which is proven to later cause cervical cancer in women. These vaccines have proven effective in preventing cervical cancer when given to younger girls in their teen years.

FAIFA has learned that several legislators are considering mandating that health insurers cover the cost of this vaccine. While FAIFA is excited about developing health trends and the HPV vaccines, we must guard against mandates that drive up costs. As with other mandates, we continue to be concerned about issues that drive up the cost of health insurance today for the admitted market, further widening the gap between voluntary market health insurance programs and ERISA programs which will not be required to offer such coverage. FAIFA will continue to work against such mandates.

Optional Federal Charter Legislation Passed in U.S. House

(The following item is from NAIFA Political Frontline newsletter.)

House Financial Services Committee member Rep. Ed Royce (R-CA) introduced the National Insurance Act of 2006 on Thursday, September 28. The bill, H.R. 6225, is a companion to legislation S.2509, introduced earlier this year by Senate Banking Committee members John Sununu (R-NH) and Tim Johnson (D-SD). Both H.R. 6225 and S.2509 would allow life and property/casualty insurers and their agents to choose to be regulated by the federal government or remain in the state system -- a concept known as "optional federal charter."

How the National Insurance Act Affects Producers

H.R. 6225 and S. 2509 would give insurance agents the choice to remain licensed in the state regulatory system or "opt" for a national, federal license that would be valid in all 56 U.S. insurance jurisdictions (including the states, the District of Columbia and five U.S. territories). With a federal license, the agent may sell, solicit and negotiate insurance in any state on behalf of federally licensed insurers and/or state licensed insurers. With regard to taxes, national producers will still be required to pay taxes in their home states. For producers who choose to remain state licensed, they may still sell, solicit or negotiate insurance on behalf of state or federally licensed insurers doing business in their state.

For agents who work primarily for a single carrier, the bill requires federally licensed insurers (or National Insurers as the bill calls them) to supervise the activities of their federally licensed agents. In addition, federally licensed insurance agencies (or National Agencies as the bill calls them) would be required to supervise their employees engaged in the sale, solicitation and negotiation of insurance. A federal insurance commissioner created by the bill would be responsible for establishing the supervision standards of both National Insurers and National Agencies. The federal insurance commissioner would directly oversee the sales and marketing practices of federally licensed producers that are not employed by a National Insurer or National Agency, and who do not work primarily for a federally licensed insurer.

Major Components of the National Insurance Act

In addition to the agent licensing provisions, the National Insurance Act of 2006 contains the following

major components:

--- The creation of a federal regulator, or the Office of National Insurance, that would be housed in the Department of Treasury and headed by a commissioner appointed by the president and subject to confirmation by the U.S. Senate.

--- Allows for the establishment of insurance self-regulatory organizations (SROs) for National Insurers, National Agencies and federally licensed insurance producers.

--- Broad preemption of most state insurance laws and regulations for federally licensed insurers and producers.

--- Holding companies of National Insurers and National Agencies would be required to register with the newly created National Commissioner.

--- Federal Insurers would be required to participate in all state guaranty funds unless that state guaranty fund is not deemed "qualified" by the National Commissioner. In the case of a non-qualified state fund, the National Insurer would be required to participate in a new federal guaranty fund.

NAIFA Position

NAIFA supports and has supported over many years efforts to modernize the regulation of insurance. NAIFA seeks improvement in the process and cost of acquiring, maintaining and renewing a license whether in a single state or in multiple states. NAIFA supports regulatory processes that allow new insurance products to get to market quickly and at less cost; and NAIFA supports streamlining the overall regulation of insurance companies and its cost including market conduct examinations. NAIFA remains committed to working with the National Association of Insurance Commissioners and state legislators to improve the state-based regulatory system, but NAIFA is open to good-faith reform initiatives whether state or federal that will serve agents and the public better.

Earlier this year NAIFA commissioned the firm Fleishman Hillard to conduct a comprehensive survey of NAIFA members to determine their views on the three major regulatory reform proposals in play: the Interstate Compact, the SMART Act and the optional federal charter. What NAIFA learned from that study is that most of NAIFA members and leaders do not know very much about the three proposals. Furthermore, when the proposals were explained to them, NAIFA members were generally supportive of both the Interstate Compact and the SMART Act, but were split over the creation of an optional federal charter. As a result, NAIFA's volunteer leaders are currently working with NAIFA staff to develop programs intended to educate NAIFA members on the various regulatory reform proposals. That process is currently in its early stages. That effort, combined with your ongoing feedback, will assist NAIFA's leadership in determining if our organization will endorse the National Insurance Act.

The OFC Prognosis...

Whether or not the National Insurance Act will gain steam in either the House or Senate remains unclear. In the short term, the outcome of the November elections will have a great impact on what turn this issue takes next year. In the Senate, Banking Committee Chairman Richard Shelby is expected to remain the chairman next year. Shelby has already committed to holding more hearings on insurance regulatory reform. In the House, House Financial Services Committee Chairman Oxley is retiring this year. If the House remains Republican, the two leading contenders for the post are Rep. Richard Baker (R-LA) and Rep. Spencer Bachus (R-AL). However, if Democrats take the majority, Rep. Barney Frank (D-MA) will be the new chairman. In addition, a lead champion for an optional federal charter, Paul Kanjorski (D-PA) will be the chairman of the Financial Services Subcommittee that oversees insurance. Rep. Kanjorski is already expected to be a lead co-sponsor of the National Insurance Act when it is reintroduced at the beginning of the 110th Congress in January.

As for Baker or Bachus, their support for an optional federal charter is less clear. Rep. Baker was actively behind the drafting of the SMART Act. The SMART Act (State Modernization and Regulatory Transparency Act) is a draft bill that would give the states a deadline to achieve uniformity or the federal government would intervene.

In addition, both Congressmen were engaged in the recent House passage of the Nonadmitted and Reinsurance Reform act of 2006. The bill, passed by the House on September 27, is essentially a noncontroversial piece of the SMART Act that was reduced to legislative language. The bill would make more efficient the

regulation of surplus lines insurance by subjecting the insurer to the regulatory requirements of the insured's home state. For reinsurance, that Act declares that the state of domicile of a reinsurer is solely responsible for regulating the reinsurer's financial solvency -- as long as that state is NAIC-accredited. At this time, there is no companion bill in the Senate.

The future direction of this issue is anybody's guess. However, most will agree that interest is growing and we can expect Congress to continue to address this issue next year and in the years to come.

For more information or to send comments, contact NAIFA's Jill Edwards at jilledwards@naifa.org.

Accelerated CFP™ Course of Study to Begin in January

Discount for Members of FAIFA

Friday, Dec. 15 is the deadline to register for six modules of study which fulfill the educational requirements for the CERTIFIED FINANCIAL PLANNER™ designation. The accelerated program of study is endorsed by FAIFA and will be offered one weekend per month for 12 months in Tampa beginning January, 2007. **Course study will be completed in time for candidates to sit for the CFP examination in March, 2008.**

Classes will be held at the Holiday Inn Rocky Point, approximately one mile west of Tampa International Airport, convenient for those who plan to fly to Tampa for the classes.

Offered by Tallahassee Community College, this program of study is the only Professional Financial Planning Program endorsed by FAIFA. Members receive a \$100 discount on the initial deposit.

For complete registration and payment information, click the hot link below to view or download the form (pdf). For additional information, contact Gary Englund, JD, CFP, CLU, ChFC, MSFS, LUTCF at (813) 948-1101 or by e-mail at gary.englund@raymondjames.com.

SALES TIP OF THE MONTH

TIP: Cultivate Your Prospects and Clients

In a society where people are pressed for time and pulled in many different directions, it's vitally important that you keep your name in front of prospects and clients. Here are some of the best ways to grow relationships with a personal touch:

1) Send Articles of Interest to Your Prospects and Customers

Look for interesting articles in various magazines, newspapers, and general-interest periodicals. It has been said that even if people don't remember much about you, they remember how you make them feel. Making a client or prospect feel important is a great way to build a solid relationship.

2) Create a List of 20 Ways to Make Your Prospect's Life or Business Better

Send this list to prospects and customers. If you focus on a business niche, provide marketing, sales, or other business ideas that can further their sales or profits.

3) Send Prospects a Thank-you Note for Saying "No"

When individuals don't buy from you now, that doesn't necessarily mean they won't buy sometime in the future. Let them know that you're always open to work with them, irrespective of present circumstances. A thank-you note for saying no could be something as simple as, "Disappointed we're unable to do business now. Look forward to working with you in the future. Always feel welcome to call."

4) Send a Thank-you Note After the Sale to Inspire

Future Business

Frequently after a sale, agents simply say "thank you," shake hands, walk out the door, and move on to the next sale. Remember, a thank-you note sent to the decision maker continues a real relationship and ensures future access and sales.

5) Send a Personal Note to Inspire

A lesson learned from former U.S. president George H.W. Bush: Each day, send a warm and friendly note to five to ten of your prospects and clients. Omit any sales literature; just send a personal note that cultivates, informs, and inspires. It need be no longer than three sentences. Mention something interesting, or simply give someone a word of encouragement.

6) Use Your Voice-Mail Message to Encourage Relationships

A perfunctory outgoing message like "Leave a message at the sound of the tone" leaves prospects unintrigued and clients uninspired. Instead, use your greeting as an informative message about your practice that also encourages the caller. You could say something like "I'm so glad you called. I look forward to making a difference in your financial picture. Please leave your name and number at the sound of the tone, and I will return your call either later today or first thing in the morning."

FLORIDA ASSOCIATION OF INSURANCE AND FINANCIAL ADVISORS

1836 Hermitage Boulevard, Suite 200, Tallahassee, Florida, 32308

E-mail: info@faifa.org Website: www.faifa.org Phone (850) 422-1701 FAX (850) 422-2762

FAIFA Advisor -- Tom Ashley, Editor (ashley@faifa.org)