



*Independent Insurance Agents
& Brokers of America, Inc.*

**STATEMENT OF TOM MINKLER
ON BEHALF OF THE
INDEPENDENT INSURANCE AGENTS & BROKERS OF AMERICA**

BEFORE THE

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

COMMITTEE ON FINANCIAL SERVICES

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 Minkler, and I am pleased to be here today on behalf of the Independent Insurance Agents & Brokers of America (IIABA) and to provide my association's perspective on the non-admitted insurer/reinsurance legislation that is the focus of this hearing. I am currently Chairman of the IIABA Government Affairs Committee. I am also President of Clark Mortenson, a New Hampshire-based

independent agency that offers a broad array of insurance products to consumers and commercial clients in New England and beyond.

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

IIABA Commends H.R. 5637 as the Right Approach

IIABA commends Congresswoman Brown-Waite, Congressman Moore, Chairman Baker, and all who worked on drafting this legislation. We believe that overall the bill is the right approach and we are happy to support it, and we look forward to working with the Subcommittee and Committee as you continue your review of the legislation.

In particular, this legislation preserves the state system of insurance regulation while achieving much-needed uniformity. Virtually every sector — insurers, producers, consumers and even regulators themselves — has voiced significant concerns with the inefficient patchwork of different laws and regulations that characterize the current regulatory system. Although we also believe that the current state-based insurance regulatory system is in need of greater efficiency and uniformity, IIABA opposes constructing a completely new regulatory scheme at the federal level through mandatory or optional federal regulation. A new, federal insurance regulatory system would

dismantle the inherent strengths of state regulation, namely diversity, geographical uniqueness, innovation and responsiveness to consumers.

IIABA believes the best use of federal legislative authority is to help make the existing state system more efficient and uniform through a mix of national standards with state enforcement and uniformity achieved through both incentives and preemption of certain state laws. This approach offers the best solution because it will promote more uniform standards and streamlined procedures from state to state; protect consumers and enhance marketplace responsiveness; and emphasize that oversight can best be met by improving the state-based system. The result for all stakeholders would be a more efficient, modern and workable system of state regulation.

The SMART draft of two years ago would have tackled most aspects of the insurance regulatory system all at once. In contrast, the Nonadmitted and Reinsurance Reform Act of 2006 would single out two areas – surplus lines regulation and reinsurance supervision – where there is general consensus for early action. We support this step-by-step approach to achieve reform. While IIABA is eager also to have Congress address the need for uniformity and streamlining in producer licensing as well as other reform areas, we strongly support the general approach taken in H.R. 5637 and applaud the sponsors and the Subcommittee, respectively, for introduction and the prompt hearing on the matter.

Role of Agents & Brokers in the Nonadmitted Insurance Market

Nonadmitted, or surplus lines, insurance provides coverage for unique or hard to place property and casualty risks when unavailable or unaffordable in the traditional, licensed or "admitted" insurance market. The role of independent insurance agents and

brokers in the nonadmitted market is just as important as their role in the overall insurance market. Independent insurance agents and brokers invest substantial effort to identify policyholders' wants and needs; understand the complex terms of policies available; assess the products available and present choices to the consumer about coverage, price, service, and financial strength of carriers; and remain available to assist with any questions and changes as needed.

IIABA believes that continued state supervision of this market is necessary to ensure that the nonadmitted marketplace continues to function as the "safety-valve" for the overall insurance market for hard-to-place risks. Nevertheless, the current state-based regulatory scheme is burdened by inefficiencies that disrupt the non-admitted marketplace with respect to the allocation and remittance of premium taxes, licensing of nonresident agents and brokers, and duplicative regulation of the nonadmitted market generally.

Need for Uniformity in Premium Tax Allocation and Remittance

Premium tax allocation and remittance schedules vary significantly from state to state. Surplus lines brokers are responsible for determining which state's allocation formula governs a transaction involving a multi-state surplus lines risk. State surplus lines laws require that a licensed surplus lines agent or broker placing coverage remit taxes to the state on the portion of premium allocated to that state. State laws do not, however, contain mechanisms for the remittance of premium taxes to other states. Moreover, nonresident surplus lines agents and brokers have no guidance on which state surplus lines laws govern multi-state surplus transactions. As a result of the lack of a universally applicable allocation formula for multi-state risks and sufficient guidance on

which state's laws govern a multi-state surplus lines transaction, surplus lines agents and brokers attempting to comply with lawful requirements of the various states often are caught between conflicting rules and claims on premium tax revenues. At best, the confusion and conflicts result in inefficiencies and expenses which ultimately affect policyholders in addition to the producing agents and brokers.

IIABA supports the Nonadmitted Insurance and Reinsurance Reform Act of 2006 because it eliminates this confusion. Under the bill, a surplus licenses licensee (the broker accessing the nonadmitted market) need only remit premium taxes to the home state of the insured, and if requested, a report of the location and insured values of properties and risks by states covered under the policy being placed. The states then determine how the taxes will be allocated, either by compact or by other procedures developed by the states, and in each case using the allocation information provided by the surplus lines broker.

First Step in Uniformity in Producer Licensing

Surplus lines agents and brokers engaging in transactions that involve multi-state risks currently must obtain and maintain general agent or broker licenses and surplus lines licenses in many if not every jurisdiction in which the exposures are located. Some states require that these agents and brokers obtain and maintain corporate licenses as well. This means that a surplus lines broker or agent could potentially be required to obtain and maintain up to 100 separate licenses in order to handle a single multi-state surplus lines transaction. Moreover, each state has different licensing requirements and renewal schedules. These duplicative licensing requirements cause administrative burdens which impede the ability of agents and brokers to effectively and efficiently

service their customers' policies. Perhaps most importantly, these onerous licensing requirements create expenses which ultimately impact policyholders. The Nonadmitted Insurance and Reinsurance Reform Act alleviates the burdens of duplicative licensing requirements by encouraging states to participate in a national insurance producer database without diminishing the quality and expertise of the surplus lines insurance distribution channel.

Uniformity in Surplus Lines Regulation

Surplus lines agents and brokers must typically comply with the laws and regulations of multiple states with respect to coverage for multi-state risks. As a result of the lack of sufficient guidance on which state law governs a multi-state surplus lines placement, agents and brokers who have obtained nonresident surplus lines licenses find themselves attempting to comply with the surplus lines laws of every applicable state. These agents and brokers are subject to multiple tax filings, multiple diligent search requirements (which vary from state to state), multiple regulatory filings, and multiple information notices on the declarations page or policy, among other duplicative regulatory requirements.

The Nonadmitted Insurance and Reinsurance Reform Act effectively streamlines surplus lines regulation by making the insured's home state the source of regulation for individual surplus lines transactions. In addition, the Act streamlines access to the surplus lines market by waiving state due diligence requirements for the sophisticated commercial entities that constitute a significant portion of policyholders in this market.

The bill also has a second title that would, in much the same way as the nonadmitted insurance title, seek to reduce overlapping, multiple-state regulation of both reinsurer financial condition – making one NAIC-accredited state responsible for each reinsurer – and credit-for-reinsurance on the balance sheets of ceding insurers. While, IIABA is less directly concerned with this title, except to the extent some of our members serve as brokers of outward reinsurance programs, we nevertheless note and applaud that this reinsurance title also seeks to retain and improve state regulation rather than create a federal regulator.

Conclusion

The IIABA applauds the sponsors and urges the Subcommittee to promptly act on the Nonadmitted Insurance and Reinsurance Reform Act of 2006, which IIABA believes is an excellent example of a pragmatic reform approach that utilizes targeted, federal tools to improve the state-based regulatory system. We are also hopeful that this approach will be used in the near future to facilitate additional reforms in the state-based system of insurance regulation, particularly regulation of producer licensing. Thank you again for the opportunity to testify.