Independent Insurance Agents
& Brokers of America, Inc.

STATEMENT OF THE INDEPENDENT INSURANCE AGENTS AND BROKERS OF AMERICA

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

UNITED STATES SENATE
July 11, 2006

Good afternoon Chairman Shelby, Ranking Member Sarbanes, and Members of the Committee. My name is Tom Minkler, 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 insurance regulatory reform. 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 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 a variety of insurance products – property, casualty, health, employee benefit plans and retirement products.

<u>Introduction</u>

IIABA believes it is essential that all financial institutions be subject to efficient regulatory oversight and that they be able to bring new and more innovative products and services to market quickly to respond to rapidly evolving consumer demands. It is clear that there are inefficiencies existing today with insurance regulation, and there is little doubt that the current State-based regulatory system should be reformed and modernized. At the same time however, the current system does have great strengths – particularly in the area of consumer protection. State insurance regulators have done an excellent job of ensuring that insurance consumers, both individuals and businesses, receive the insurance coverage they need and that any claims they may experience are paid. These and other aspects of the State system are working well. The "optional" Federal charter concept proposed by some would displace these well-running components of State regulation and, in essence, "throw the baby out with the bathwater."

As we have for over 100 years, IIABA supports State regulation of insurance – for all participants and for all activities in the marketplace, and we oppose any form of Federal regulation – optional or otherwise. Yet despite this historic and longstanding support for State regulation, we are not confident that the State system will be able to resolve its problems on its own. That is why we feel that there is a vital legislative role for Congress to play in helping to reform the State regulatory system; however, such an effort need not replace or duplicate at the Federal level what is already in place at the State level. IIABA supports targeted, Federal legislation along the lines of the NARAB provisions of the Gramm-Leach-Bliley Act (GLBA) to improve the State-based system.

To explain the rationale for this approach, I will first offer an overview of both the positive and negative elements of the current insurance regulatory system. I will then outline the reasons for our strong opposition to an optional Federal charter; and specifically our opposition to S. 2509, the National Insurance Act of 2006. I will then describe the NARAB provisions of GLBA and provide a more complete explanation of IIABA's support for targeted Federal legislation to modernize the State-based regulatory system.

The Current State of Insurance Regulation

From the beginning of the insurance business in this country, it is the States that have carried out the essential task of regulating the insurance marketplace to protect consumers. The current State insurance regulatory framework has its roots in the 19th century with New Hampshire appointing the first insurance commissioner in 1851, and insurance regulators' responsibilities have grown in scope and complexity as the industry has evolved. When a Supreme Court decision raised questions about the role of the authority of the States, Congress quickly adopted the McCarran-Ferguson Act[1] (McCarran-Ferguson) in 1945. That act, which was reaffirmed by Congress in 1999, declared that States should regulate the business of insurance and that the continued regulation of the insurance industry by the States was in the public's best interest.

GLBA expressly states that McCarran-Ferguson remains the law of the United States and further states that no person shall engage in the business of insurance in a State as principal or agent unless such person is licensed as required by the appropriate insurance regulator of such State. Title III also unequivocally provides that "[t]he insurance activities of any person

[1] McCarran-Ferguson Act, ch. 20, 59 Stat. 33 (1945) (codified as amended at 15 U.S.C. §§1011-1015 (1994))

(including a national bank exercising its powers to act as agent . . .) shall be functionally regulated by the States," subject only to certain exceptions which are intended to prevent a State from thereby frustrating the new affiliation policy adopted in GLBA. These provisions collectively ensured that State insurance regulators retained regulatory authority over all insurance activities, including those conducted by financial institutions and their insurance affiliates. These mandates were intended in large part to draw the appropriate boundaries among the financial regulators, boundaries that unfortunately continue to be challenged.

Most observers agree that State regulation has worked effectively to protect consumers, largely because State officials are positioned to be responsive to the needs of the local marketplace and local consumers. Unlike most other financial products, the purchaser of an insurance policy will not be able to fully determine the value of the product purchased until after a claim is presented – when it is too late to decide that a different insurer or a different product might make a better choice. As a result, insurance is a product with which consumers have many issues and questions and if a problem arises they want to resolve it quickly and efficiently with a local call. In 2002 State insurance regulators handled approximately 4.2 million consumer inquiries and complaints. Today, State insurance departments employ approximately 13,000 individuals who draw on over a century-and-a-half of regulatory experience to protect insurance consumers.

Unlike banking and securities, insurance policies are inextricably bound to the separate legal systems of each State, and the policies themselves are contracts written and interpreted under the laws of each State. When property, casualty, and life claims arise, their legitimacy and amounts must be determined according to individual State legal codes. Consequently, the constitutions and statue books of every State are thick with language laying out the rights and responsibilities of insurers, agents, policyholders, and claimants. State courts have more than 100 years of experience interpreting and applying these State laws and judgments. The diversity of underlying State reparations laws, varying consumer needs from one region to another, and differing public expectations about the proper role of insurance regulation require local officials "on the beat".

Protecting policyholders against excessive insurer insolvency risk is one of the primary goals of insurance regulation. If insurers do not remain solvent, they cannot meet their obligations to pay claims. State insurance regulation gets high marks for the financial regulation of insurance underwriters. State regulators protect policyholders' interests by requiring insurers to meet certain financial standards and to act prudently in managing their affairs. The States, through the National Association of Insurance Commissioners (NAIC), have developed an effective accreditation system for financial regulation that is built on the concept of domiciliary deference (the State where the insurer is domiciled takes the lead role). When insolvencies do occur, a State safety net is employed: the State guaranty fund system. States also supervise insurance sales and marketing practices and policy terms and conditions to ensure that consumers are treated fairly when they purchase products and file claims.

Despite its many benefits, State insurance regulation is not without its share of problems. The shortcomings of State regulation of insurance fall into two primary categories—it simply takes too long to get a new insurance product to market, and there is unnecessary duplicative regulatory oversight in the licensing and post-licensure auditing process.

In many ways, the "speed-to-market" issue is the most pressing and the most vexing from a consumer perspective because we all want access to new and innovative products that respond to identified needs. Today, insurance rates and policy forms are subject to some form of regulatory review in nearly every State, and the manner in which rates and forms are approved and otherwise regulated can differ dramatically from State to State and from one insurance line to the next. Such requirements are significant because they not only affect the products and prices that can be implemented, but also the timing of product and rate changes in today's competitive and dynamic marketplace. The current system, which may involve seeking approval for a new product or service in up to 55 different jurisdictions, is too often inefficient, paper intensive, time-consuming, and inconsistent with the advance of technology and regulatory reforms made in other industries. In order to maximize consumer choice in terms of the range of products available to them, changes and improvements are needed.

Similarly, insurers are required to be licensed in every State in which they offer insurance products, and the regulators in those States have an independent right to determine whether an insurer should be licensed, to audit its market-conduct practices, to review mergers and acquisitions, and to outline how the insurer should be governed. It is difficult to discern how the great cost of this duplicative regulatory oversight is justified. (*For a discussion of the need for agent licensing reform please see NARAB section*).

Federal Chartering

There is growing consensus among observers, including State and Federal legislators, regulators, and the insurance marketplace – that insurance regulation needs to be updated and modernized. There is disagreement, however, about the most effective and appropriate way in which to obtain needed reforms. Some support pursuing reforms in the traditional manner, which is to seek legislative and regulatory improvements on an ad hoc basis in the various State capitals. A second approach, pursued by several international and large domestic companies, calls for the unprecedented establishment of full-blown Federal regulation of the insurance industry. This call for an optional Federal charter concerns me deeply.

Although the proposed optional Federal charter regulation might correct certain deficiencies, the cost is incredibly high. The new regulator would add to the overall regulatory infrastructure – especially for independent insurance agents and brokers selling on behalf of both State and Federally regulated insurers – and undermine sound aspects of the current State regulatory regime.

The best characteristics of the current State system from the consumer perspective would be lost if some insurers were able to escape State regulation completely in favor of wholesale Federal regulation. As insurance agents and brokers, we serve on the front lines and deal with our customers on a face-to-face basis. Currently, when my customers are having difficulties with claims or policies, it is very easy for me to contact my local company representative or a local official within the State insurance department to remedy any problems. If insurance regulation is shifted to the Federal government, I would not be as effective in protecting my consumers, as I have serious reservations that some Federal bureaucrat on a 1-800 number will be as responsive to a consumer's needs as a local regulator. The Federal regulatory model proposes to charge a distant (and likely highly politicized) Federal regulator with implementation and enforcement. Such a distant Federal regulator may be completely unable to respond to insurance consumer claims concerns. As a consumer, personal or business, there would be confusion as to who regulates their policy, the Federal government or the State insurance commissioner. I could have a single client with several policies with one company that is regulated at the Federal level, while at the same time having several other policies which are regulated at the State level.

S. 2509, the National Insurance Act

On April 5, 2006 Senators John Sununu (R-NH) and Tim Johnson (D-SD) introduced S. 2509, the National Insurance Act of 2006 (NIA), a wide-reaching Federal regulatory insurance bill that creates an optional Federal charter for both the life and p/c marketplaces. The bill would create a parallel, Federal system of regulation and supervision for insurers and producers, ostensibly modeled on the system for banks.

Insurers choosing to become Federally regulated would be regulated primarily by a new Federal Office of National Insurance, patterned largely on the Office of the Comptroller of the Currency (OCC). The office would be within the Treasury Department and be headed by a Commissioner appointed by the President. The NIA would also establish a National Insurance Guaranty Corporation (NIGC). National insurers would be required to participate in the respective life or p/c guaranty funds in "qualified" States. For business written in "non-qualified" states, national insurers would be required to participate in the new NIGC. The bill requires national property casualty insurers to file nothing more than a list of standard policy forms annually with the Commissioner, but does not call for any rate or form approval of p/c products, or even disclosure to the Commissioner of non-standard p/c forms.

The NIA authorizes the chartering and licensing of national insurance agencies and the licensing of Federal insurance producers. The NIA authorizes a national insurance agency to sell insurance for any Federally chartered or State licensed insurer and would permit Federally licensed producers to sell insurance on behalf of any insurer nationwide, whether the insurer is federally licensed or state licensed. The bill would also prevent a State insurance regulator from restricting the ability of a State-licensed producer to sell insurance on behalf of a national insurer in the State in which the producer is licensed, but it does not expressly grant any regulator the power to regulate relationships between State licensed producers and national insurers.

Although the sponsors' statement suggests that they do not contemplate a requirement for producers to obtain a Federal license to deal with national insurers, it is unclear whether the Commissioner's authority to require such producers to become Federally licensed might be inferred from any other provisions of the bill (or conversely, whether the Commissioner might forbid national insurers from dealing with producers who lack a Federal license). Despite the sponsors' statement this lack of clarity could lead to duplicative Federal licensing requirements. Even if the sponsors' intentions are realized the ensuing regulatory gap could eventually lead to additional Federal licensing requirements for those producers choosing to remain at the State level.

The Big "I" believes that S. 2509 creates an environment in which the State system could not survive. The sponsors of the NIA assert that this bill will create a healthy regulatory competition that will force State regulators to cooperate and be more receptive of the role of market forces. NIA proponents point to the dual banking system as an example of how this would work, but this is an incomplete analogy. In the banking context, the FDIC stands as the ultimate guarantor and protector of the public's trust in the entire banking system - both State and Federal. NIA lacks the same foundation in which both a State and Federal system can prosper. It creates an uneven playing field and will mark the beginning of the end of the State insurance regulatory system.

While it is alleged that the banking regulatory system is the model for the NIA, the bill bears only superficial resemblance to the national chartering of commercial banks. The so-called dual banking system itself is in reality multi-headed and was developed not by design but piecemeal, beginning in the Civil War years; it would not be replicated today if we had a fresh start. At any rate, the NIA omits many of the most significant structural (and prudential) features of the banking model - it creates an OCC without the FDIC and the Fed playing their important supervisory roles. The NIA cherry-picks the features from several of these Federal banking laws to come up with a model which lacks the consumer protections found in any one of them, and which ignores the problems it would create for State insurers, guaranty funds, and their citizens.

This proposal turns the dual-banking model, which proponents profess to admire, on its head. It is as if the FDIC's guaranty function was returned to State-managed individual deposit insurance funds, and then these State funds were forced by Congress to insure both national banks and State chartered banks, but without the States having any supervisory authority over the national banks. The FDIC guarantees the deposits of both State and national banks. However, since the S&L and banking crises of the 1980's the FDIC has exercised enhanced regulatory powers as a supervisory backstop in order to protect the guaranty funds. Under the NIA, the State guaranty funds paradoxically would be encouraged to play the FDIC's role as guarantors of National Insurers but would be denied the auditing or solvency supervision over these insurers which the FDIC enjoys over all insured banks. This scheme is not only the reverse of the banking system, but it imprudently separates the solvency guarantee function from the financial-risk supervision of the new National Insurers. Also lacking in the discretionary supervision created by the NIA is the discipline of "prompt corrective action" that is a necessary component to protect the FDIC guaranty funds.

This could have disastrous implications for solvency regulation which ensures that companies meet their obligations to consumers by largely bifurcating this key regulatory function from guaranty fund protection. The FDIC (or Federal Reserve) exercises significant solvency supervisory authority over all insured institutions, whether State or nationally chartered, that is, every bank has at least two layers of regulation - the FDIC and its charter regulator. But under the National Insurance Act, the entities made responsible for guaranties to policyholders of National Insurers - i.e., the State guaranty funds in "qualified States" - would be prohibited from exercising any oversight equivalent to FDIC over these National Insurers. This would be equivalent to asking the FDIC to extend deposit insurance to State chartered banks while prohibiting the FDIC from supervising those banks or setting risk-based premiums for that protection. In 130 years of State-based insurance regulation, the industry has never suffered anything like the S&L crisis of the 1980s or the rash of bank failures in the late 1980s and early 1990s. How long the State guaranty fund system will be able to survive the examination-blind participation of National Insurers (which will also have less rate and market conduct supervision than under current state law) is an open question. This separation of solvency regulation and the guaranty function creates a troubling gap in the regulatory scheme. The States are clearly left holding the bag under this proposal, which could lead to dysfunction in the insurance marketplace to the detriment of both consumers and companies.

The banking system also does not have a distribution system equivalent to insurance agents and brokers, so there is no analogy in the banking context for what happens when dual charters are imposed on this distribution system. Because of this, IIABA believes that the NIA puts local independent insurance agents and brokers at risk of being Federalized. The NIA tries to diminish the problem by allowing producers to remain State-licensed and still be able to access both State and National Insurers for their clients. However, nothing in the Act explicitly prohibits the Commissioner of National Insurance, in his broad rulemaking authority, from conditioning either insurer or producer rules in ways that could effectively force producers to obtain an additional Federal license or even give up the State licenses. Additionally, the bill would allow Federal intervention in the form of market conduct reviews and audits even on companies and agents that choose to remain State licensed and regulated. All of this could lead to either dual regulation, or Federalization, of insurance agents throughout the country.

As mentioned earlier, the IIABA also believes that local insurance regulation works better for consumers and the State-based system ensures a level of responsiveness to both consumers and the agents who represent them that could not be matched at the Federal level. The NIA attempts to address this concern by providing for the establishment of Federal regional offices. However, to match the local responsiveness of State regulators a Federal office would have to be established in every state, and in many cases, multiple offices within each State. This would create an entirely new and completely redundant Federal regulatory layer. Why duplicate the current State-based system when you can build off its strengths and modernize it? There is no way out of this predicament for the supporters of OFC – either you significantly increase the size of the Federal government to match state regulators' responsiveness to consumers or rely upon a distant Federal regulator in Washington, D.C. to meet consumer needs – and they will fail to meet those needs.

By eliminating or drastically limiting regulatory review of policy language for the small commercial and personal lines property-casualty markets the NIA would leave consumers unprotected. IIABA has consistently supported the insurers' desire for greater pricing flexibility as we believe rating freedom will benefit consumers in the long run. However, we do not believe that complete freedom from supervision of policy forms is appropriate. Form supervision ensures that consumers receive the information necessary to understand the value of their policies and the terms of their insurance coverage. Nevertheless, the NIA, in a single 12-

line section of the 290-page bill (section 1214), would effectively eliminate supervision of policy form content in the property-casualty sector, including personal lines and small commercial lines. The NIA would potentially foreclose access to transparent information necessary to place consumers in the position to compare property-casualty products and for regulators to ensure that products are fairly constructed, responsive to the public's needs, and otherwise in the public interest. The IIABA supports reasonable form review modernization such as consistent, limited time periods for State regulators to review forms, uniform product standards where appropriate, and less regulatory review for large commercial entities; but the NIA goes way too far.

The NIA could also potentially leave hard to insure risks with state insurers and cause a negative impact on State residual market mechanisms and other State funds which ensure that high-risk individuals and businesses obtain the insurance coverage they need. This could create an unlevel playing field for State and Federally regulated insurers. Here's how: the NIA, in its broad preemption of all State laws that would otherwise apply to National Insurers, makes a limited exception for the various State laws creating assigned risk plans, mandatory joint underwriting associations and other mandatory residual market mechanisms. However, the NIA fails to make a straight-forward requirement that National Insurers must participate and take their share of the burden for these mechanisms. This language only ambiguously provides that National Insurers (and National Agencies and federally licensed producers) shall "be subject to . . . applicable State law relating to participation" in such mechanisms.[2] Even this limited application is further qualified in the NIA by three more "outs" for National Insurers: (1) if the mechanism's rates fail to cover the "expected value of all future costs" of policies; (2) requires

[2] This formulation, which seems to defer the question of whether the National Insurer will actually be required to participate, is crucial because, for example, the "applicable State law relating to participation" would have been enacted before National Insurers existed and on its face may give National Insurers arguments that they are not caught in the net of such laws. It would have been more reassuring to policyholders and agents if the Act had mandated their participation as if they were State-licensed insurers in the same lines of business.

the National Insurers to use any particular rate, rating element, price or form;" or (3) is "inconsistent with any provision of the Act." These exemptions are not available to State-licensed insurers and as a practical matter may well mean National Insurers do not participate. At the very least it will take years to resolve what that question-begging "laws relating to participation" really means. Nor is it clear who will decide that; other parts of the NIA suggest that the new Office of National Insurance not the States may assert prerogative to decide how these State laws apply. In the end, it is not clear that States will have any "club" or a "stick" to compel participation by National Insurers, given all of the other limitations and preemptions on State powers in the bill.

In short, as constructed in the NIA, a dual ("optional") system could likely de-populate the capital base which shoulders the voluntary and involuntary pools and residual market mechanisms for difficult-to-place risks. This could create adverse selection where these risks are only covered by State mechanisms and those insurers remaining at the State level, disadvantaging those State-charted insurers.

In the end, the IIABA feels that the NIA would lead to a needless Federal bureaucracy and unnecessarily infringe on States' rights. At a minimum, the States will be forced to provide a safety net for national insurers through the Federal mandate allowing entry of these insurers into State guaranty funds while being completely preempted from monitoring those companies for solvency. Worse, most of the States' tools for dealing with residual markets and market conduct problems will be preempted in some way for national insurers. National chartered insurers will have an unequal advantage by escaping State residual market burdens, as explained above, and may also enjoy an implicit Federal guarantee, no matter that they will also get equal coverage from the State guaranty funds. Moreover, unlike the Gramm-Leach-Bliley Act

(GLBA) which effectively empowers the States through uniform regulatory standards, the NIA fails to give the any assistance except through the threat of regulatory competition. Thankfully there is another way to reform insurance regulation to the benefit of consumers, agents & brokers, and insurance companies: targeted Federal legislation already proven successful in GLBA.

National Association of Registered Agents and Brokers (NARAB)

One of the most significant accomplishments of GLBA for the insurance marketplace was the NARAB Subtitle dealing with producer licensing reform. Prior to the enactment of GLBA, each State managed its agent/broker licensing process in a distinct and independent manner, and there was virtually no consistency or reciprocity among the States. For agents and brokers, who increasingly operate in multiple jurisdictions, the financial and paperwork burdens associated with multi-State licensing compliance became overwhelming; and consumers suffered as duplicative and redundant regulatory requirements made it difficult for producers to be responsive to their needs. While problems still remain, producer licensing has improved measurably since GLBA, and these changes are a direct result of Congress' decision to address these issues legislatively.

NARAB put the ball in the States' court by threatening the creation of a new national, NASD-style licensing entity – known as the National Association of Registered Agents and Brokers – if the States did not satisfy the licensing reform objectives articulated by Congress. The creation of NARAB was only averted when a majority of the States and territories (interpreted to be 29 jurisdictions) achieved a specified level of licensing reciprocity within a three year period.

The NARAB concept shows what the Federal government and the States can accomplish in partnership and how Congress can establish Federal goals or standards to achieve much needed marketplace reforms. The NAIC and State policymakers had been trying to move toward reciprocal and uniform licensing for over a century, but little progress was made until Congress acted legislatively. This first step to modernized licensing requirements would not have occurred without targeted Federal legislation, or what some are now calling "Federal tools."

<u>IIABA's Support for Targeted Federal Reforms</u>

IIABA supports State regulation of insurance but feels that the system needs to be modernized to bring it into the 21st century. Despite our continued support for the State system, we question whether the States will be able to resolve their problems on their own. For the most part, State reforms must be made by statute, and State lawmakers inevitably face practical and political hurdles and collective action challenges in their pursuit of improvements on a national basis.

Therefore, IIABA believes that Congressional legislative action is necessary to help reform the State regulatory system. We propose that two overarching principles should guide any such efforts in this regard. First, Congress should attempt to fix only those components of the State system that are broken. Second, no actions should be taken that in any way jeopardize the protection of the insurance consumer, which is the fundamental objective of insurance regulation and of paramount importance to the IIABA as our members represent consumers in the insurance marketplace.

IIABA believes the best alternative for addressing the current deficiencies in the State-based regulatory system is a pragmatic, middle-ground approach that utilizes Federal legislative tools to foster a more uniform system and to streamline the regulatory oversight process at the

State level. By using targeted and limited Federal legislation to overcome the structural impediments to reform at the State level, we can improve rather than replace the current State-based system and in the process promote a more efficient and effective regulatory framework. Rather than employ a one-size-fits-all regulatory approach, a variety of legislative tools could be employed on an issue-by-issue basis to take into account the realities of today's increasingly global marketplace. 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. This can be done in a single legislative act or through enactment of a number of bills dealing with a particular aspect of insurance regulation starting with those areas in most need of reform where bipartisan consensus can be established.

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. In this way, we can assure that insurance regulation will continue to be grounded on the proven expertise of State regulators at the local level.

Some optional Federal charter proponents argue that using targeted Federal legislation to improve State regulation is more intrusive on the State system than Federal regulation. We strongly disagree. The proponents would have you believe that the optional Federal charter proposals create a parallel universe of Federal chartered insurers but leave in place the State chartered system in pristine condition. This is not the case. In fact, to take one example discussed earlier, OFC would, as a practical matter, force the State guaranty funds to accept and backstop Federal chartered insurers – there is nothing "optional" about that. This would be an unprecedented intrusion on State solvency regulation - the State system would be responsible for insolvent insurers but could not regulate them to keep them from going insolvent. In contrast, targeted Federal legislation addresses limited aspects of State insurance regulation only where uniformity is truly necessary and is the least intrusive option. Unlike "optional" Federal charter, this approach does not threaten to remove a substantial portion of the insurance industry from State supervision almost completely pre-empting all application of State law.

Additionally, some OFC supporters have criticized the Federal tools approach because of enforcement concerns. They argue that Federal standards are only as good as the enforcement mechanism ensuring that States adhere to those standards. The reality, however, is that court enforcement of Federal preemption occurs regularly and would occur under both the Federal tools approach and the optional Federal charter. As long as the Federal standards are properly crafted and clear, enforcement of federal standards would not create more burdens for the court system than litigation arising under the NIA. The only difference is that, under the NIA, a Federal regulator would receive deference to preempt State consumer protection laws and industry supporters would receive an advantage in court.

Ironically, those same groups who have criticized the targeted approach on both these grounds have recently embraced this approach in legislation introduced in the House just last month: H.R. 5637, the Nonadmitted Insurance and Reinsurance Reform Act of 2006. H.R. 5637 would create a uniform system of premium tax allocation and collection for surplus lines; provide for regulatory deference to the policyholder's home state for the nonadmitted/surplus market; adopt the NAIC nonadmitted insurance model act on a national basis; create streamlined access to the surplus market for sophisticated commercial purchasers; and rely on the home State for reinsurance solvency oversight while prohibiting extra-territorial application of State law.

The legislation has near-unanimous industry support and significant bipartisan cosponsorship: nine Republicans and nine Democrats.

Conclusion

IIABA has long been a supporter of reforming the insurance marketplace. IIABA worked closely with this Committee in support of GLBA and five years ago IIABA's National Board of State Directors took a formal policy position to support Federal legislation to modernize State insurance regulation. While GLBA reaffirmed State functional regulation of insurance, some large insurers are now advocating for an "optional" federal charter. State regulators and legislators, many consumer groups, independent insurance agents and brokers, some life insurance companies, and many property-casualty companies are strongly opposed to an optional Federal charter. The State system has proven that it best protects consumers and can be modernized to work effectively and efficiently for the entire insurance marketplace with the right legislative pressure from Congress.

Targeted, Federal legislation to improve the State-based system presents Members with a pragmatic, middle-ground solution that is achievable – something we can all work on together. Unlike the creation of an entirely new regulatory structure, the enactment of targeted Federal legislation to address certain, clearly identified problems with State regulation is not a radical concept. The Senate Banking Committee has already proven that this approach can work with the NARAB provisions of GLBA. Congress can achieve tangible reform for insurance consumers now while the debate concerning broader more radical reforms continues. We encourage the Senate Banking Committee to take up this targeted approach once again -- it is the only solution that can bring the marketplace together to achieve reform.