



WHERE WE STAND
on Legislative Issues

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

WHO WE ARE

The Independent Insurance Agents & Brokers of America (IIABA) is a national alliance of 300,000 business owners and their employees who offer all types of insurance and financial services products.

Unlike company-employed agents, IIABA agents and brokers represent more than one insurance company, so they can offer clients a wider choice of auto, home, business, life, health, employee benefit and retirement products.

IIABA agents and brokers not only advise clients about insurance, but they also recommend loss-prevention ideas that can cut costs. If a loss occurs, the independent agent or broker stands with the client until the claim is settled.

IIABA was founded in 1896 as the National Local Association of Fire Insurance Agents. With the expansion of property-casualty business and coverages, the organization's name was changed to the National Association of Insurance Agents in 1913. To emphasize its members' ability to work with a variety of insurance companies, the organization became the Independent Insurance Agents of America in 1975. The association's name was changed in 2002 to the Independent Insurance Agents & Brokers of America to reflect the diversity of its membership, which includes both independent insurance agents and brokers.

IIABA is a voluntary federation of state associations and local boards. Its independent insurance agents and brokers are politically astute and are involved both locally and nationally. They monitor and affect insurance agent and broker issues in Washington through IIABA's active, professional staff on Capitol Hill. Their willing support has made IIABA's political action committee—InsurPac—one of the largest federal trade association PACs in the nation.

TRUSTED CHOICE®

Trusted Choice® is a national consumer marketing brand created exclusively for association members by the Independent Insurance Agents & Brokers of America (IIABA) and its insurance company partners. In just three years, participation in the brand program has grown to more than 4,000 agencies and nearly 30 insurance companies.

Extensive consumer research conducted by IIABA found that the three most important attributes influencing consumers in their choice of insurance providers were the value-added services that independent insurance agents and brokers offer to their clients: customization of policies, claims advocacy and choice of insurance companies.

The consumer brand employs these attributes to distinguish independent insurance agents and brokers as the smart way to purchase insurance and financial services, and to set Trusted Choice® agencies apart from their competitors. Consumers are taking note of its message.

Through national advertising, public relations, local agency marketing, Internet communications, state affiliate marketing and an innovative Web site, Trusted Choice® is educating consumers and becoming the defining voice for agents and brokers nationwide. All media direct consumers to www.TrustedChoice.com, where they find a cutting-edge Agency Locator and other consumer information.

For more information visit www.TrustedChoice.com.



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INSURANCE REGULATORY REFORM

Enactment of financial services modernization, coupled with continuing frustration over the lack of insurance regulatory uniformity at the state level, has sparked new interest in regulatory reform. Three options have evolved for achieving reform: modernizing individual state laws by working with state legislatures and the National Association of Insurance Commissioners (NAIC); constructing an entirely new regulatory structure at the federal level through enactment of mandatory or optional federal regulation; or improving the state-based system by creating greater uniformity and efficiency via targeted federal legislation.

Virtually every industry stakeholder—insurance companies, agents and brokers, consumers and regulators—has voiced significant concerns with the current regulatory system, characterizing it as slow, inefficient and a patchwork of different laws and regulations that adds unnecessary expense.

IIABA is among the leaders in advocating the continuation of state regulation, but with significant reforms. Although the need for greater efficiency and uniformity is clear, IIABA believes optional federal chartering, federal regulation and the creation of a new federal bureaucracy goes too far—the equivalent of throwing the baby out with the bath water. IIABA strongly opposes federal regulation of insurance, but supports modernization of state insurance regulation via federal law.

IIABA also opposes efforts by the U.S. Office of the Comptroller of the Currency (OCC) to preempt state insurance laws and regulations. Via regulatory fiat, the OCC is attempting to free national banks from state insurance oversight. All facets of state law are threatened if the OCC deems that they “significantly interfere” with the ability of national banks to sell insurance.

Rather than a one-size-fits-all scheme, IIABA is advocating a pragmatic, middle-ground approach that proposes federal legislative tools to fix state insurance regulation by creating a more uniform and streamlined regulatory system. This approach would overcome state-level impediments to reform and build on, rather than dismantle, the states’ inherent strengths—diversity, geographical uniqueness, innovation and responsiveness to consumers—to meet the challenges of a rapidly changing insurance marketplace.

IIABA believes a variety of federal legislative “tools”—national standards with state enforcement, national reciprocity or multi-state uniformity, incentives and preemption of certain state laws—can be used on an issue-by-issue basis to achieve reform. 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.

This is why IIABA strongly supports the **State Modernization and Regulatory Transparency Act (SMART) legislation** currently being drafted by Chairman Mike Oxley (R-Ohio) and Subcommittee Chairman Richard Baker (R-La.) of the House Financial Services Committee. SMART improves and modernizes state insurance regulation and does not create a federal regulator.

IIABA POSITION: IIABA supports reform and modernization of state insurance regulation by making the system more uniform and streamlined. IIABA opposes creation of an optional federal chartering system and federal insurance regulation. IIABA is advocating a pragmatic reform approach that utilizes targeted, federal legislative tools to improve the state-based regulatory system. IIABA supports the SMART legislation currently being discussed in the House of Representatives.

TRIA & NATURAL DISASTER

The horrific attacks on September 11, 2001, resulted in the loss of thousands of Americans and more than \$30 billion in insured losses. After September 11th, the threat of another terrorist attack – coupled with uncertainty in the insurance market and inability to price for future terrorism risks – caused coverage for many types of commercial property-casualty insurance and reinsurance to rise dramatically in price or disappear altogether.

The lack of available, affordable terrorism insurance threatened our country's economic security, jeopardizing commercial policyholders' coverage and delaying job-creating real estate development. As a result, the 107th Congress enacted the Terrorism Risk Insurance Act (TRIA) through December 31, 2005. TRIA reaffirmed state regulation and established a three-year program creating a federal backstop for insured terrorism losses.

Today, the public-private partnership established by TRIA is working to stabilize the commercial insurance marketplace that underpins the U.S. economy. However, as expiration nears, the private marketplace for terrorism insurance still has not fully developed. The Government Accountability Office (GAO) released a study concluding that there is not a sustainable marketplace for terrorism coverage after the program expires. Additionally, Federal Reserve Chairman Alan Greenspan recently testified that the insurance market cannot reasonably assess where a catastrophic terrorist attack may occur, and this uncertainty makes it nearly impossible to insure against terror strikes, leaving a serious void in the private marketplace.

Since the insurance marketplace does not have the capacity to insure against major terrorist attacks without a federal backstop, **IIABA supports S. 467, the Terrorism Risk Insurance Extension Act**, introduced by Sens. Christopher Dodd (D-Conn.) and Robert Bennett (R-Utah). The legislation extends TRIA for two years and requires the Presidential Working Group on Financial Markets to recommend long-term solutions to cover terrorist risks.

Although TRIA doesn't expire until December 31, Congress must act sooner to provide the certainty insurers and consumers need. Currently, businesses and insurers are making decisions that impact operations beyond the program's potential sunset. Continuing a federal backstop will guarantee access to coverage and provide economic security with little cost to the government.

IIABA is not only concerned with man-made catastrophic risks but also those created by the forces of nature. The high costs of recent natural disasters combined with the fear of future catastrophes have restricted homeowners' insurance availability in disaster-prone regions. Several recent multibillion-dollar disasters have created exposure and solvency issues for companies that write homeowners insurance in disaster-prone areas. As a result, many insurance companies have stopped writing new business in or withdrawn from at-risk markets, making it difficult for residents to find homeowners' coverage.

IIABA supports **H.R. 846, the Homeowners' Insurance Availability Act** introduced by Rep. Ginny Brown-Waite (R-Fla.), which allows private insurance companies to purchase, at auction, reinsurance contracts directly from the U.S. Treasury, while maintaining limited federal involvement and encouraging more private-sector involvement. Under H.R. 846, the federal government would only step in if a disaster was equal to or greater than a one-in-100 year event. Any such event that does not meet that threshold would still be covered by the private market. For any disaster over this threshold, insurance companies would cover 50 percent. Previously, this legislation has been scored as "revenue neutral," meaning no cost to the government. The program will encourage more companies to enter disaster markets—increasing availability and market stability.

IIABA POSITION: IIABA supports legislation extending a federal backstop for terrorism insurance—either the current program or a modified one—to ensure stability in the commercial insurance marketplace. IIABA also supports H.R. 846, which will encourage more insurance companies to enter natural disaster markets and increase availability of homeowners' insurance coverage.

PRODUCER COMPENSATION

After conducting high-profile investigations of the investment banking and mutual fund industries, the New York attorney general launched an investigation of certain insurance industry practices in 2004. He was joined by several state insurance commissioners and attorneys general after uncovering illegal activities at one large broker and some insurance companies. One focus of these investigations has been producer (agent & broker) incentive compensation and potential conflicts of interest.

In addition to the typical compensation that agents and brokers receive (a commission from an insurer), some producers also may qualify for incentive compensation from insurers when specified objectives are met. Sales incentive programs are legal and legitimate tools used in nearly every industry to reward performance, including those that also rely on commission payments, and are sound business practice. Unlike some industries, however, the incentive compensation paid to insurance producers is not based upon a particular insured or purchase of insurance but on the overall relationship between a producer and an insurer.

Not all incentive compensation agreements are the same. There are placement service agreements (which were at the heart of the illegal conduct) that compensate some brokers up-front for placement of business based on volume, and there are contingent commissions which are “contingent” on a number of factors—primarily loss experience—and paid on the back end. Contingent commissions are affected by numerous factors outside the control of agencies or brokerages. Because they are not calculated until after the close of the insurer’s year, producers do not even know if they will qualify for a contingent commission until year’s end.

Each party involved in an insurance transaction benefits from the use of contingent commissions. They provide incentives to agents and brokers to engage in effective underwriting and to assist customers with risk management. By bringing efficiency to the marketplace, all participants (the consumer, the insurance company, and the producer) benefit.

The insurance marketplace is highly competitive, and consumers are well-served as a result. Insurance buyers have many options. Consumers can choose to purchase insurance from captive agents (who sell the products of only one insurer), “direct” insurers, or one of the nearly 40,000 independent agencies that sell the products of multiple companies. This intense competition—particularly in Main Street America—keeps agencies responsive and accountable and helps ensure that consumers are well-served.

Recently, some observers have alleged that brokers’ receipt of incentive compensation can create a conflict of interest, or the appearance of one, because a broker may also be paid a fee by the client and because of the broker’s unique relationship with the client. IIABA believes the best way to guard against conflicts of interest, or the appearance of such conflicts, is through transparency and disclosure. Any insurance producer acting as a broker in a given transaction should clearly disclose to a buyer the incentive compensation arrangements existing with the insurer providing the coverage. IIABA does not support other restrictions or prohibitions on incentive compensation.

IIABA Position: The IIABA is deeply troubled by illegal activities, such as bid-rigging, allegedly committed by one mega-broker. These few bad actors distort a highly competitive marketplace and should be prosecuted. However, there is a major difference between illegal activities and long-established, legal, state-supervised business practices utilized in virtually every industry such as sales incentive programs.

In the insurance context, this contingent compensation benefits the entire marketplace and serves as an important tool that recognizes the value to insurance companies of agents and brokers as frontline underwriters, as well as the value to consumers for producers’ work on risk reduction. IIABA recognizes the concern expressed by some that brokers’ incentive compensation could lead to conflicts of interest or the appearance of such conflicts. IIABA believes the best way to guard against this concern is through the disclosure of broker incentive compensation arrangements.

TAX REFORM

Main Street businesses are the engine that drives America's growth and economic development. The complex Internal Revenue Code is filled with burdensome taxes that hurt small business owners and discourage job creation.

To address these issues, President Bush recently created an Advisory Panel on Federal Tax Reform, led by former Sens. Connie Mack (R-Fla.) and John Breaux (D-La.), to study reforms to the tax code. IIABA's 300,000 members support several tax initiatives to encourage growth in the nation's economy.

IIABA believes Congress should address a discrepancy between marketplace reality and the tax code's **treatment of intangible assets** when they are acquired during the purchase of another business. Current law requires these assets be written off over 15 years, even though an intangible asset, such as a customer list, has a much shorter shelf life. A quicker depreciation schedule would allow Main Street businesses to reinvest more cash in their operations. For these reasons, IIABA supports legislation allowing small businesses to amortize intangible assets over a shorter time period that is more consistent with business experience. In the past, IIABA endorsed legislation to write-off up to \$5 million of intangible assets in the year of purchase, with the remainder to be depreciated ratably over 14 years.

IIABA supports **making permanent the income tax rate reductions in the Economic Growth and Tax Relief Reconciliation Act (EGTRRA)**. Many businesses, including 35 percent of IIABA members, are formed as Subchapter S corporations and pay taxes at individual rates. Lower rates help businesses reinvest and grow their operations and the overall economy. Similarly, IIABA **supports making permanent the provisions of The Jobs and Growth Act of 2003**. This law, which will expire soon, accelerates income tax rate reductions from EGTRRA, increases small business expensing limits, and lowers capital gains and dividend taxes.

IIABA also supports **raising the individual alternative minimum tax exemption** so small business owners are not surprised by unanticipated increased tax liability. Additionally, IIABA calls on Congress to decide whether **the elimination of estate taxes** will extend beyond its December 31, 2010, sunset. If business owners can pass on their life investments with minimal or no tax implications, they are more likely to continue investing in their growth.

Finally, IIABA supports needed modifications and reforms to the Social Security system and **opposes raising payroll taxes to fund any potential Social Security reforms**. In 2018, it is estimated that the federal government will begin paying out more in Social Security benefits than it collects—and shortfalls will increase annually. As a result, reform is necessary.

However, IIABA believes increasing payroll taxes or raising the cap on the amount of income subject to the tax is inconsistent with the program's purposes. Sole proprietors would be especially hard hit due to paying both employer and employee portions of the tax. Other small business owners would suffer, even S corporations, for all employees making over \$90,000 annually because they would have to pay the employer portion of the new taxes. This would hurt many Main Street businesses and potentially wipe out the President's tax cuts for individuals earning over \$90,000 annually and for small businesses.

IIABA POSITION: IIABA supports a shorter depreciation schedule for intangible assets (such as the customer list of an independent agency or brokerage), which better reflects their useful economic life; making permanent the President's tax cuts from 2001 and 2003; raising the alternative minimum tax exemption; and making permanent the elimination of estate taxes or significantly modifying and reducing the estate tax for the future. IIABA believes these tax initiatives will expand business opportunities and create jobs. While IIABA supports Social Security reform, IIABA opposes an elimination or increase of the wage cap beyond the current inflation index.

LEGAL REFORM

The rapid rise in frivolous lawsuits is hurting businesses, consumers and the economy. Unwarranted lawsuits distract from real cases and cost small businesses, on average, about \$150,000 per year in litigation expenses. A significant part of these costs go to paying lawyers' fees, not to injured parties.

President Bush and many members of Congress remain committed to improving our current judicial system to better serve consumers while protecting small businesses and our economy. IIABA hopes the success of the Class Action Fairness Act, a Big "I" priority signed into law by President Bush in February, will provide momentum for other legal reforms.

IIABA supports **H.R. 420, the Lawsuit Abuse Reduction Act (LARA)** introduced by Rep. Lamar Smith (R-Texas), a bill designed to prevent the filing of frivolous lawsuits which can be especially harmful to small businesses. The legislation creates a "loser pays" scenario that permits judges to order plaintiffs to reimburse reasonable litigation costs, including attorneys' fees. It also creates mandatory sanctions against attorneys or parties filing frivolous lawsuits. H.R. 420 addresses "forum-shopping" by requiring that plaintiffs sue only where they live or were injured, or where the defendant's principal place of business is located.

Skyrocketing medical malpractice insurance premiums are prompting doctors to flee states with the highest rates, refuse to perform high-risk procedures, practice defensive medicine, or retire early. Unwarranted lawsuits are crippling the delivery of health care in America and rapidly increasing health insurance costs.

IIABA seeks enactment of medical liability reform legislation to improve access to medical care by reducing the excessive burden the current liability system places on the health care delivery system. IIABA supports **H.R. 534, the Help Efficient, Accessible, Low-Cost, Timely Healthcare (HEALTH) Act**, introduced by Rep. Christopher Cox (R-Calif.). The legislation would limit noneconomic (pain and suffering) damage awards to \$250,000 without capping "economic damages." The legislation also allows punitive damages to be two times the amount of economic damages awarded or \$250,000, whichever is greater.

IIABA also calls on Congress to **reform asbestos litigation** to ensure truly sick people are fairly compensated and to save jobs and businesses that are being destroyed by unnecessary litigation. The number of claims is rising despite the fact that most workplace asbestos exposure ended in the early 1970s. At the current rate, the total number of claims could top 2.5 million, and the insurance industry's total liability could top \$275 billion. In 2001, both the RAND Institute and Tillinghast-Towers estimated that at least 90 percent of claims are filed by plaintiffs who do not have asbestos-caused cancer, and about two-thirds of compensation thus far has gone to claimants with non-malignant illnesses.

The U.S. Senate continues to study the Fairness in Asbestos Injury Resolution (FAIR) Act, which would create a privately funded, federally administered trust fund to compensate asbestos exposure victims. IIABA believes that any trust fund proposal must be fair to both the sick victims of asbestos disease and those paying claims. The funding must be appropriate, and there must be certainty that any fund will finally resolve asbestos claims without returning to the courts. IIABA also supports other reasonable measures that would curb the asbestos litigation crisis.

IIABA POSITION: IIABA supports legal reform to discourage frivolous lawsuits and to hold accountable those who abuse our judicial system. IIABA seeks resolution to the medical liability crisis that will safeguard public access to medical care. IIABA urges Congress to act on asbestos litigation reform and create an exclusive remedy for resolution of asbestos claims to ensure fair compensation to deserving victims.

FEDERAL CROP INSURANCE

IIABA has been a key player in the evolution of the Federal Crop Insurance Program (FCIP) as it moved from a federally provided program to a public/private project. Initially, crop insurance was sold, delivered and administered exclusively by federal employees. Today, the federal government reinsures policies that are administered by private insurance companies and delivered to farmers by independent insurance agents and brokers.

Congress has addressed the needs of American farmers by frequently modifying the program since it was enacted in the early 1980s. IIABA will strive for continued cooperation between the private sector, Congress and the U.S. Department of Agriculture (USDA) through its Risk Management Agency (RMA) to provide improvements.

IIABA's objectives are to ensure farmers are well-served and protected, and independent agents continue to be the most effective distribution channel for crop insurance. Any reforms should enhance and promote private-sector delivery as well as the crop insurance and servicing expertise of independent agents. It is imperative that free-market incentives remain to ensure maximum farm coverage.

IIABA has noted significant problems with the "Premium Reduction Plan" (PRP), a program established through the Federal Crop Insurance Act that allows companies demonstrating an ability to offer crop insurance more efficiently than the rate of operational cost reimbursement the chance to reduce the premium by an amount corresponding with that efficiency. PRPs would reduce the role of independent agents in the delivery of crop insurance, to the detriment of farmers, by employing networks of agriculture business affiliates that, in offering crop insurance at a reduced premium, "tie" this discount with offers of other goods and services. Most tying arrangements are anti-consumer, and prohibited under federal and state statutes.

IIABA was concerned that there were no formal rules established to govern the marketing and distribution of PRPs. There are no procedures, guidelines or regulations in place for the approval of PRP applications, and RMA cannot assure that PRPs will not be approved or administered in a discriminatory manner (cherry-picking the largest, most lucrative accounts) when there are no regulations in place defining the required criteria and obligations of the companies and agents. Appropriate procedures are the only way to ensure the fair delivery of crop insurance to all eligible farmers regardless of size or resources. Without the establishment of proper regulatory guidelines regarding the approval of PRPs, the fundamental purpose of the FCIP – to provide crop insurance to all eligible farmers in the United States – will diminish.

IIABA advocated and RMA agreed to deny all pending PRP applications for the 2005 reinsurance year and to conduct a comprehensive, transparent rulemaking process ensuring that all discriminatory loopholes are closed, and that the minimum standard for approval guarantees parity for all parties involved in the crop insurance delivery process. IIABA is closely monitoring the rulemaking process and providing formal comments during the development stages.

IIABA believes a program such as the PRPs that is vulnerable to rebating, anti-consumer tying arrangements or unfair marketing would undermine the integrity of the FCIP. The precedent established by the PRP jeopardizes the efficacy of the crop-insurance delivery system. IIABA believes that section 508(e)3, the authorizing statute of the Federal Crop Insurance Act, should be repealed by Congress before PRPs dismantle one of the most successful public-private partnerships in the federal government.

IIABA Position: IIABA strongly believes PRPs circumvent state insurance licensing laws and are vulnerable to rebating, anti-consumer tying arrangements and unfair marketing. IIABA calls on RMA to promulgate formal rules that guarantee that any company offering a PRP does so without any form of discrimination. IIABA calls on Congress to repeal the PRP provision.



InsurPac

INSURPAC

INDEPENDENT INSURANCE AGENTS & BROKERS OF AMERICA POLITICAL ACTION COMMITTEE

InsurPac, the political action committee (PAC) of the Independent Insurance Agents & Brokers of America (IIABA), was established in 1975 to complement IIABA's legislative program. It is the largest property-casualty insurance industry PAC in the country.

By pooling the voluntary individual financial contributions of thousands of independent insurance agents and brokers, InsurPac helps elect candidates and re-elect members of the U.S. House of Representatives and U.S. Senate who share IIABA's business philosophy. InsurPac raised nearly \$1.5 million for candidates in the last election cycle. During this same cycle, 96 percent of the federal candidates that InsurPac supported were victorious.

InsurPac and IIABA are separate but affiliated organizations. InsurPac's governing board of trustees is appointed by IIABA's Executive Committee. All InsurPac disbursements are reported to the Federal Election Commission (FEC). Copies of InsurPac reports are available for purchase at the FEC office in Washington, D.C.

GRASSROOTS

INDEPENDENT INSURANCE AGENTS & BROKERS OF AMERICA GRASSROOTS PROGRAM



The Independent Insurance Agents & Brokers of America's (IIABA) grassroots program is the backbone of legislative advocacy on agent and broker issues on Capitol Hill and in state capitals. IIABA's 300,000 agents, brokers and their employees are a formidable grassroots constituency that ranks among the most respected on Capitol Hill. They play a key role in shaping legislation involving insurance regulatory reform, producer compensation, small business concerns, tax issues, pension reform, tort reform, privacy issues, natural disaster reform, terrorism insurance, crop insurance issues, health care reform, and more.

IIABA's grassroots strength lies in the number of involved agent and broker activists that can be mobilized at a moment's notice by an "Action Alert" system. These calls to action are shared with all employees in an agency or brokerage firm, including support staff, so they too can have their voices heard on issues affecting their livelihood.

Additionally, IIABA encourages its members to be active in local, state and national politics. In fact, more than 35 former insurance professionals currently hold seats in the U.S. Congress. With literally hundreds or thousands of agents, brokers and their employees in every congressional district, IIABA's grassroots activists not only play an important role in their communities as local business and civic leaders, but also play a critical role in supporting federal, state and local candidates for elective office.

New challenges in Washington and the financial services marketplace demand that more IIABA members become informed and involved in the political arena. IIABA's grassroots program will play a vital role in shaping and promoting the agency system. Call IIABA at (202) 863-7000 to become actively involved in the Association's grassroots efforts or to obtain legislative information and political background materials.

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