

SPECIAL BULLETIN

RE: NATIONAL ASSOCIATION OF REGISTERED AGENTS AND BROKERS REFORM ACT
(NARAB II)
H.R.26 - PASSES U.S. HOUSE AND SENATE

NARAB II legislation, supported by ELANY since it was first introduced in Congress in 2008, was passed by both Houses of Congress and is on its way to President Obama for his signature.

While many in the industry are focused on the Terrorism Risk Insurance Program Reauthorization Act (TRIA) with which the NARAB II bill was consolidated, the NARAB II Act is extremely relevant to insurance producers and particularly E&S brokers, who have the highest volume licensing requirements of all producers.

NARAB II is designed to create one stop shopping for nonresident producer licenses.

Here is a summary of NARAB II's pertinent provisions.

1. A nonprofit D.C. corporation will be created to implement an efficient mechanism for streamlined nonresident producer licensing.
2. Any producer, who chooses to apply for membership in NARAB and who meets all membership qualifications, will be able to obtain all nonresident producer licenses, including excess and surplus line licenses, by paying the licensing fees to NARAB.
3. The qualifications for NARAB membership include:
 - A) being licensed and in good standing in your resident state,
 - B) passing a nationwide criminal background check, and
 - C) meeting standards for personal, educational training and experience to be adopted.
4. Once a member pays the applicable nonresident producer licensing fees, they can begin to sell, solicit and negotiate insurance in such nonresident state(s).
5. In addition to eliminating the individual state-by-state nonresident application process for members, the NARAB II legislation:
 - A) prohibits any nonresident state from imposing licensing, personal or corporate qualifications, education, training, experience, residency, continuing education or bonding requirements that differ from NARAB membership criteria, and
 - B) prohibits any requirement for nonresidents to register with the Secretary of State or equivalent state official.

6. While nonresident education requirements are not permitted, NARAB will establish minimum education requirements for members at least as substantial as certain NAIC Model Act standards provided, however, these requirements do not duplicate those being met by the producer in the producer's home state.

7. Nonresident states retain full authority to enforce the laws applicable to nonresident producers, among other retained authorities. NARAB makes it easier to obtain the nonresident licenses but the states still enforce the insurance laws.

8. While some provisions of this legislation will have immediate effect once signed by the President, some provisions will become effective in two years, which allows time to establish all necessary operations.

NARAB II as a concept was first introduced in the Gramm-Leach-Bliley (GLB) Act back in 1999. While the original NARAB provisions in GLB were never triggered, GLB allowed NAPSLO, ELANY and other surplus line associations to gain two very important milestones. Full nonresident excess and surplus line broker licenses were to be made available, essentially eliminating legal discrimination against nonresidents. Also, bond requirements for nonresident E&S licenses were not permitted if a state wanted to meet the "reciprocal licensing" standards.

NARAB II will bring a great deal of relief from the current costs of administrating, renewing and managing the multistate licensing process. Many thanks to the leadership at NAPSLO, particularly Brady Kelly and Keri Kish and NAPSLO's lobbying firm, FaegreBD Consulting, with whom ELANY worked on this very important legislation.

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