

Chapter 2

**Producer Licensing Model Act
Uniformity Provisions of the Producer Licensing Model Act**

Through the PLMA, the NAIC created a system of reciprocity for producer licensing and also established uniform standards in key areas of producer licensing. The PLMA was initially adopted in January 2000. It was subsequently amended in October 2000 and in January 2005.

In December 2002, the Producer Licensing (EX) Working Group adopted a set of Uniform Resident Licensing Standards (URLS). In December 2008, the standards were revised and updated to incorporate standardization and uniformity for both resident and nonresident licensing. The standards were, therefore, renamed the ULS. The PLMA and the ULS are designed to complement each other and assist the states in creating a uniform system of producer licensing. In 2008, the Producer Licensing (EX) Working Group was charged with reviewing the ULS. Subsequent revisions were made to the ULS in August 2010 (limited lines definitions) and in August 2011 (definitions for certain non-core limited lines). The revised standards are included in the Appendix, and updates can be found on the Producer Licensing (EX) Working Group’s web page on the NAIC website.

The key uniformity provisions of the PLMA are:

1. Definitions for “negotiate,” “[sell effect contracts of insurance](#)” and “solicit,” and uniform exceptions to licensing requirements.
2. An application process for both resident and nonresident producer license applications that uses the NAIC Uniform Application for resident and nonresident producers.
3. Definitions for the six major lines of insurance: Life, Accident and Health [or Sickness](#), Property, Casualty, Personal Lines, and Variable Life or Annuity Products.
4. Exemptions from completing prelicensing education and examinations for licensed producers who apply for nonresident licenses.
5. Standards for license denials, non-renewals and revocations.
6. Standards regarding which individual producers and business entities may receive a commission related to the sale of an insurance policy.
7. Standards for producer appointments for states that have an appointment system.
8. Procedures for insurance regulators, companies and producers to report and administratively resolve “not for cause” and “for cause” appointment terminations.
9. A definition for limited lines insurance. The Producer Licensing (EX) Working Group has adopted a recommended list of limited lines licenses, as set forth in the ULS, and has encouraged states to eliminate licensing categories for other lines of insurance.

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Other Key Provisions of the Producer Licensing Model Act

The PLMA also contains a number of provisions that promote simplified licensing procedures.

Home State

The intent of the PLMA is for a producer to have one state of residence. Section 2(B) of the PLMA defines this concept as the home state:

“Home state” means the District of Columbia and any state or territory of the United States in which an insurance producer maintains his or her principal place of residence or principal place of business and is licensed to act as an insurance producer.”

A producer is permitted to designate either the actual state of residence or the principal place of business as the home state. The PLMA does not specifically prohibit the existence of two home state licenses. The producer may select either the resident state or the principal place of business. This option was intended to accommodate a producer who lives in one state but maintains his/her business in another state. However, it was the intent of the drafters for one state to be designated as the home state to prevent forum shopping. The Producer Licensing (EX) Working Group has discouraged any state from adopting a stance that a producer can maintain two home states.

Change of Home State

Under the PLMA, there is now a simplified process for producers who move from state to state and were in good standing prior to the change of residence.

Section 9 of the PLMA provides a mechanism for licensed producers to maintain an active license when changing the state of residence. Section 9(A) creates an exemption from preclicensing education or examination for a producer who moves into a state who was previously licensed for the same lines of authority in another state. In this scenario, the producer receives a new resident license for the same lines of authority, so long as the producer applies for a resident license within 90 days of the cancellation of the producer's previous license and the producer was in good standing in the prior state.

Section 9(B) creates an exemption from preclicensing education or examination for a line of authority held by a former nonresident producer who moves into a state and becomes a resident of that state. In practice, when a nonresident becomes a resident, that producer is to be granted the same lines of authority previously held, so long as the producer applies for a resident license within 90 days of establishing legal residence. States are not to impose preclicensing education or an examination on a nonresident producer who subsequently moves into another state and declares it to be the home state, unless "the commissioner has determined otherwise by regulation."

Under the PLMA, letters of certification were eliminated as a prerequisite to granting a nonresident license. The SPLD provides verification of good standing in the producer's home state.

One unresolved issue is the long-established practice of requiring a letter of clearance for producers changing their resident state. Despite the fact that the PLMA does not contain any reference to a letter of clearance, some states still require the producer to provide a letter of clearance from the former state before the new state will grant the producer an active resident status. Other states grant the new nonresident license but continue to monitor the producer's record to make sure that the prior resident license changes in status from resident to nonresident. This is done to prevent the producer from holding two active resident licenses.

The Producer Licensing (EX) Working Group and NIPR have identified this as an issue that could best be resolved by the establishment of an electronic method for the producer to communicate the desired changes to all affected states in one transaction. NIPR's launch of the Contact Change Request (CCR) service allows producers for many states to change their physical addresses, email addresses, phone numbers and fax numbers. The Producer Licensing (EX) Working Group will turn its attention to solving the issues surrounding a change of resident state once all states have fully implemented the CCR service.

Commissioner Discretion

The PLMA contains language that allows a state to adopt regulations to cover a state-specific situation. States should carefully consider the impact that deviation from the PLMA might have on NAIC uniformity and reciprocity initiatives.

Section-by-Section Summary of the Producer Licensing Model Act

The full text of the PLMA is in the Appendices.

Section 1: Purpose and Scope

- To promote efficiency and uniformity in producer licensing.

Section 2: Definitions

- Defines the terms "home state," "limited lines insurance," "sell," "solicit," "negotiate" and other pertinent terms.

Section 3: License Required

Section 4: Exceptions to Licensing

- Lists the persons and entities that do not need licenses, even though they participate in the insurance industry.

Section 5: Application for Examination

- Requires that producers must pass an examination in the lines of authority for which application is made.
- Allows use of outside testing services to administer examinations.

Section 6: Application for License

- Sets forth the qualifications for licensure as an individual or business entity.
- Provides that limited line credit insurers must provide instruction to individuals who will sell credit insurance.

Section 7: License

- Sets forth the six major lines of authority, the limited line of credit insurance and any other line of insurance permitted under state laws or regulations.
- Provides guidelines for license continuation and reinstatement.
- Provides for hardship exemptions for failure to comply with renewal procedures.
- Lists the information the license should contain.
- Requires licensees to notify the insurance commissioner of a legal change of name or address within thirty (30) days of the change.

Section 8: Nonresident Licensing

- Requires states to grant nonresident licenses to persons from reciprocal states for all lines of authority held, including limited lines and surplus lines insurance, if those persons are currently licensed and in good standing in their home states. [States may also require fingerprints from nonresident licenses if the licensees were not previously fingerprinted as a condition of obtaining an insurance producer license in their resident state.](#)
- Requires a nonresident licensee who moves from one state to another to file a change of address and certification from the new resident state within thirty (30) days with no fee or application.

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Section 9: Exemption from Examination

- Exempts licensed individuals who change their home state from precensing and examination.
- Requires a licensed nonresident who becomes a resident to register in the new home state within ninety (90) days of establishing legal residence, unless “the commissioner determines otherwise by regulation.”

Section 10: Assumed Names

- Requires a producer to notify the insurance commissioner prior to using an assumed name.

Section 11: Temporary Licensing

- Allows temporary licensure for up to 180 days without requiring an exam when the insurance commissioner deems that the temporary license is necessary for the servicing of an insurance business in specific cases.

Section 12: License Denial, Non-renewal or Revocation

- Lists 14 grounds for denial, non-renewal or revocation of a producer license.

- Provides that a business entity license may be revoked if an individual licensee's violation was known or should have been known by one or more of the partners, officers or managers acting on behalf of the partnership or corporation, and the violation was not reported to the insurance commissioner nor was corrective action taken.

Section 13: Commissions

- Prohibits payment of commissions or other compensation to or acceptance by an unlicensed person for "selling, soliciting or negotiating" insurance.
- Allows payment of renewal commissions to an unlicensed person if the person was licensed at the time of the sale, solicitation or negotiation.
- Permits payment or assignment of commissions or other compensation to an insurance agency or to persons who do not sell, solicit or negotiate, unless the payment would violate rebate provisions.

Section 14: Appointments (optional)

- Prohibits a producer from acting as a producer for an insurer unless appointed. The insurer appoints the producer either within 15 days from the date the agency contract is executed or within 15 days from the date that the first insurance application is submitted.
- Sets forth processes for initial and renewal appointments, [if states require the appointments to be renewed](#).

Section 15: Notification to the Insurance Commissioner of Termination

- Requires the insurer to notify the insurance commissioner within 30 days following the effective date of termination of a producer's appointment, if the termination is for cause. The insurer also has a duty to promptly notify the insurance commissioner of any new facts learned after the termination. When requested by the insurance commissioner, the insurer shall provide additional information, documents, records, or other data pertaining to the termination or activity of the producer.
- If termination of a producer is not for cause, the insurer must notify the insurance commissioner within 30 days following the effective date of termination.
- Sets forth a detailed process for notifying the producer and for a producer to submit comments to the state.
- Provides that in the absence of actual malice, insurers have immunity from any actions that result from providing information required by or provided pursuant to this section.
- Contains penalties for insurers who fail to report or who report with actual malice.
- Requires that documents furnished to the insurance commissioner pursuant to this section shall be confidential and privileged.

Section 16: Reciprocity

- A state cannot impose additional requirements on nonresident license applicants who are licensed in good standing in their home state other than the requirements imposed by Section 8 of the PLMA, if the applicant's home state grants nonresident producer licenses on the same basis. [States may require statutorily required education \(e.g., annuity and long-term care training\) that does not place a hold the nonresident license renewal if the course is not completed during the license term.](#)
- A nonresident's satisfaction of CE in the producer's home state shall constitute satisfaction of all CE requirements in the nonresident state, if the home state practices CE reciprocity.

Section 17: Reporting of Actions (By Producers)

- A producer must report any administrative actions taken in another jurisdiction or by another government agency in the home jurisdiction within thirty (30) days of the final disposition of the matter.

Chapter 4

Nonresident Licensing

The previous reciprocity provisions of the GLBA adopted in 1999 required that barriers to nonresident producer licensing be eliminated. The PLMA contains specific guidance on this issue. A producer licensed in good standing in the home state must be granted a nonresident license unless good cause for denial exists under Section 12 of the PLMA.

There are four key components to licensing reciprocity:

1. Administrative procedures.
2. CE requirements.
3. Elimination of any limitations on nonresident.
4. Reciprocal reciprocity. [These terms are redundant. Could this item be relabeled to state "Reciprocity with other States"](#)

Administrative Procedures

Under the previous administrative procedures for reciprocal licensing mandated by the GLBA, a nonresident person received a nonresident producer license if:

1. The person was currently licensed as a resident and is in good standing in the person's home state.
2. The person submitted the proper request for licensure and paid the fees required by the nonresident state's law or regulation.
3. The person submitted or transmitted to the insurance commissioner the application for licensure that the person submitted to the person's home state or, in lieu of that, a completed NAIC Uniform Application.
4. The person's home state awarded nonresident producer licenses on the same basis to residents of the state in which the applicant is seeking a nonresident license.

States were required to license nonresident applicants for at least the line of authority held in the home state. This was true even if the line of authority held in the applicant's home state may not have precisely aligned with the major or limited lines of authority in the other state. States were not allowed to charge a licensing fee to a nonresident that was so different from the fee charged a resident so as to be considered a barrier to nonresident licensure.

Section 8(C) of the PLMA makes it clear that a licensed nonresident producer who changes residency is not required to surrender the license and submit a new application. All that is required is a change of address within thirty (30) days of the change of legal residence. The model provides that a state should not charge a fee for processing this change of address.

The reciprocity provisions of the PLMA also extend to surplus lines producers. A majority of states treat surplus lines as a distinct license type. Persons holding surplus lines producer licenses in their home states shall receive nonresident surplus lines producer licenses, unless some other reason for disqualification exists.

A producer holding a limited line of insurance is eligible for a nonresident limited lines producer license for the same scope of authority as granted under the license issued by the producer's home state. The nonresident state may require only what is permitted under Section 8 of the PLMA for limited lines applicants. A limited line is any authority that restricts the authority of the licensee to less than the total authority prescribed in the associated major line.

Continuing Education Requirements

Pursuant to the PLMA, a nonresident state must accept the producer's proof of the completion of the home state's CE requirements as satisfaction of the nonresident state's CE requirements, if the nonresident producer's home state recognizes the satisfaction of its CE requirements imposed upon producers from the nonresident state on the same basis.

Limitations on Nonresidents

States had to eliminate licensing restrictions that required a nonresident producer to maintain a residence or office in the nonresident state so long as the nonresident's license was from one of the U.S., the District of Columbia or the U.S. territories. The NARAB Working Group stated it was not a violation of GLBA reciprocity requirements if a state required nonresidents to provide proof of citizenship; however, under the ULS, it is the responsibility of the resident state to verify an applicant's citizenship status.

~~Reciprocal~~ [Reciprocity with other States](#)

To comply with the reciprocal reciprocity provisions of the GLBA, a majority of the states had to meet all three of the above components and grant reciprocity to all residents of the other states who have met those components.

Reciprocity Examples

The PLMA contains specific guidance on the proper reciprocal treatment that a state licensing director should grant. This chapter contains illustrative examples of these provisions. Unless otherwise specified, these examples assume that the applicant is in good standing in the home state and has not requested a change in line of authority (LOA). There are some states that did not adopt all the reciprocity standards previously required by the GLBA in 1999 and currently reflected in the PLMA. The answers to the following examples will vary when a nonreciprocal state is involved. Examples also can be found in the Producer Licensing (EX) Working Group *Frequently Asked Questions* contained in Chapter 1.

- Example A

A producer whose home state is State A has a nonresident license from State B and State C and moves to State D as the producer's new home state.

What should happen: The producer timely files a change of address in State A, State B and State C. State A changes the license from resident to nonresident. State B and State C record a change of address. The producer should apply for a license with State D within 90 days [of canceling their license in State A](#). State D should issue the license and may not require the producer to complete either an examination or prelicensing education, [state specific ethics training may be required](#); State D should verify that the license was in good standing in State A via the SPLD.

- Example B

A producer who holds a line of authority for surety in the home state, State A, applies for a nonresident license in State B, which does not have a separate surety line of authority.

What should happen: State B issues a license that has multiple LOAs, including surety [or casualty](#) LOA, that the producer holds in the home state, but the producer is limited to the surety LOA held in his or her home state.

- Example C

A producer's home state, State A, does not have a prelicensing education requirement for any LOA, and the producer holds a life insurance LOA. The producer applies for a nonresident license in a state that has a prelicensing education requirement.

What should happen: State B issues a nonresident license with the life LOA and does not require any prelicensing education before issuance.

- Example D

A producer's home state, State A, does not have a prelicensing education requirement for any LOA, and the producer holds a life insurance LOA. The producer holds a nonresident license from State B that has a prelicensing education requirement. The producer moves into that state.

What should happen: State B should issue a resident license to the producer with a life LOA and does not require prelicensing education or completion of an examination before issuance, "except where the commissioner determined otherwise by regulation." (See PLMA Section 9B.)

- Example E

A producer's home state, State A, has a prelicensing education requirement and a CE requirement that is less than the ULS, and the producer holds a life insurance LOA. The producer applies for a nonresident license in State B, which has a prelicensing requirement that matches or exceeds the ULS and a CE requirement that matches the ULS.

What should happen: State B issues the nonresident license with the life LOA and does not require the completion of either additional prelicensing education or additional CE.

- Example F

A nonresident producer applies for the variable products LOA in State A. A check of the SPLD reveals that the applicant is not licensed for variable products in the home state, State B. Upon investigation, it is learned that State B either issues life or variable as a combined LOA or has a requirement for variable products licensing, but it is not specifically tracked by the Department of Insurance (DOI).

What should happen: This is a challenge, as State B has failed to adopt the variable products line of authority as defined in the PLMA. A second challenge is that the records on the SPLD and/or the NIPR may not accurately reflect the home state business rule. In this example, the nonresident state will have to pend the application and contact the home state to verify if the applicant is in compliance with the home state law, [registered with the Financial Industry Regulatory Authority \(FINRA\) and the nonresident state specific FINRA requirements](#) on variable products. The nonresident state must then decide if the applicant should be granted a license.

Chapter 5

Activities Requiring Licensure

License Required to Sell, Solicit and Negotiate

The PLMA uses three key words to determine when a person is required to have an insurance producer license:

“Sell” means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company.

“Solicit” means attempting to sell insurance, or asking or urging a person to apply for a particular kind of insurance, -from a particular company.

“Negotiate” means the act of conferring directly with, or offering advice directly to, a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

The specific requirement to hold a license is found in Section 3 of the PLMA and reads as follows:

A person shall not sell, solicit or negotiate insurance in this state for any class or classes of insurance, unless the person is licensed for that line of authority in accordance with this Act.

The Producer Licensing (EX) Working Group clarified in 2006 that in traditional life insurance sales transactions, licensure should be determined solely by the PLMA’s “sells, solicits or negotiates” standard, without reference to the insured’s state of residence. The key is to determine if the producer was properly licensed in the state in which the activity requiring a license took place. See also FAQ Number 16 in Chapter 2.

During the drafting of the PLMA, there was considerable discussion about who should be required to hold an insurance producer license. Prior to the adoption of the PLMA, the Producer Licensing (EX) Working Group discussed guidelines for “licensable” and “non-licensable” activities. The main thrust of that effort was to distinguish acts that constitute the sale, solicitation or negotiation of insurance from administrative or clerical acts. The guidelines document gives numerous examples of “Agent” activities that do require an insurance producer license and “Clerical” activities that do not. The document is included in the Appendices. Check the Producer Licensing (EX) Working Group’s web page for any updates.

Commissions

Section 13 of the PLMA provides guidance regarding the relationship between being licensed and receiving commissions. Section 13(A) prohibits the payment of commission to a person who is required to be licensed. Section 13(B) prohibits a person from receiving a commission if that person was unlicensed and was required to hold a license under the Act.

Section 13(C) of the PLMA states that it is not necessary nor should any state require a producer to maintain an active license solely to continue to receive renewal or deferred commissions.

Section 13(D) of the PLMA provides that an insurer or a producer licensed in a state may assign commissions, services fees, brokerages or similar compensation to an insurance agency (business entity) or to persons (individuals) who are not selling, soliciting or negotiating in that state and who are not licensed in that state. For example, if a regional manager in State A is, by contract with an insurer, to receive an override commission on all sales activities from subagents located in States B and State C, but the manager does not engage in any activity that would require licensure under Section 3 of the PLMA, no license should be required by State B or State C in order for the manager to receive commission payments.

Another example: A trade association with members in all states is headquartered in State A. An insurer pays a fee to the association for each member who purchases insurance from that insurer through an affinity marketing program. The association does not have to be licensed in any state because the association does not sell, solicit or negotiate insurance.

In 2008, the Producer Licensing (EX) Working Group provided guidance on uniform interpretation of the commission-sharing provision in PLMA and recommended that adoption of Section 13 be included in the ULS. The Commission Sharing guidance document is included in the Appendix of this Handbook.

Exceptions to Licensing

The PLMA contains two key sections that clarify when a license is not required. When considering whether to require a license, states should carefully review Section 4 and Section 13 of the PLMA.

Section 4 of the PLMA contains a specific list of exceptions from the licensing requirement. States should take special note of Section 4(B)(6), which provides an exception for producers placing commercial insurance for a multistate risk with an incidental exposure in several states. As the section provides, in this situation a license is only required in the state where the insured maintains its principal place of business and the contract of insurance insures risks located in that state.

The following is a summary of types of persons and entities that are exempted from licensing:

1. An officer, director or employee of an insurer or insurance producer, provided that the officer, director or employee does not receive any commission on policies written or sold to insure risks residing, located or to be performed in the state.
2. A person who secures and furnishes information for, or enrolls individuals in, group life insurance, group P/C insurance, group annuities or group, or blanket accident and health insurance.
3. An employer or association; its officers, directors, employees; or the trustees of an employee trust plan.
4. Employees of insurers or organizations employed by insurers who are engaging in the inspection, rating or classification of risks.
5. A person whose activities in a state are limited to advertising without the intent to solicit insurance in that state [and provide notice on the advertisement that they are not licensed to see this project.](#)
6. A person who is not a resident of a state who sells, solicits or negotiates a contract of insurance for commercial P/C risks to an insured with risks located in more than one state insured under that contract.
7. A salaried, full-time employee who counsels or advises the employer relative to the insurance interests of the employer.

Recommended Best Practice for Insurance Regulators

- For uniformity purposes, states that still use a “transaction-based licensure” approach should eliminate that standard and change to the PLMA standard.