Adopted by the Producer Licensing (D) Task Force, Oct. 7, 2026

Chapter 12

Business Entities

Prior to the *Producer Licensing Model Act* (#218), most states used the term "insurance agency" to refer to the business structure used by insurance producers. Under Model #218, the term "business entity" (BE) is used. This term is intended to cover a broad range of legal business operating structures. BEs are considered to be producers under Model #218.

Section 2(A) of Model #218 defines a BE as a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

The Producer Licensing ~~(EX) Working Group~~(D) Task Force has adopted a uniform application form that is the standard for all states for resident and nonresident BE applications. Section 6(B) of Model #218 provides further guidance about the licensing of BEs:

> A BE acting as an insurance producer is required to obtain an insurance producer license. Application shall be made using the Uniform Business Entity Application. Before approving the application, the insurance commissioner shall find that:
>
> 1. The BE has paid the fees set forth in [insert appropriate reference to state law]; and
> 2. The BE has designated a licensed ~~producer~~ individual responsible for the BE's compliance with the insurance laws, rules and regulations of this state.

Since BEs are considered producers, the reciprocity issues discussed in other sections also apply to BEs. States ~~should~~ may not require additional attachments to the application that might interfere with reciprocity.

A common issue that arises with resident and nonresident BE licensing is the role of the secretary of state (SOS) and the state corporation statutory requirements. Most states have adopted a Model Corporation Law that requires resident and nonresident businesses to register with the state corporation department. The issue for state licensing directors is whether the state insurance department should require some proof of registration with the SOS as a pre-condition to licensing. The NAIC legal department has studied this issue extensively and advised the Working Group that states ~~should~~ may not require items such as articles of incorporation or proof of registration with the SOS as a pre-condition to licensing for nonresident BEs. However, when a BE is licensed and the BE changes their type, states may ask the BE to provide their articles of incorporation or articles of organization from the SOS for this type of name change.

Model #218 does require that all producers, including BEs, notify the insurance commissioner, ~~to~~ to receive approval, prior to using an assumed (i.e., Doing Business As) name. Section 10 of Model #218 states:

> An insurance producer doing business under any name other than the producer's legal name is required to notify the insurance commissioner prior to using the assumed name.

The uniform appointment process, as adopted by the Working Group, does not specifically address BEs. Section 14 of Model #218 states that a producer acting as an agent of an insurance company must be appointed. States vary in the interpretation of these guidelines. This issue is one that the Producer Licensing ~~(EX) Task Force~~(D) Task Force previously considered ~~in 2010~~ as part of its efforts to streamline BE licensing. In the absence of specific guidance from the Working Group, the guidelines discussed in the paragraphs below are suggested.

State insurance regulators should balance the cost of a regulatory requirement with the benefit that the requirement adds to consumer protection. If detailed information is collected, such as several levels of appointments, that information should be a meaningful part of the state insurance department's consumer protection plan. If information is only rarely used in support of investigations, it may not be cost-effective to collect that information and require staff to compile it and process it. During a recent assessment of state insurance department licensing units, it was often found that

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information about affiliations and branch offices often required at the time of application was rarely used. Sub-appointments and BE appointments are discouraged.

Just as the uniform appointment process contemplates that only one appointment will be required for an individual producer no matter how many types of products that producer sells for a given company, if a state requires appointments for a BE, then the state should require only one appointment per BE per company, no matter how many types of products that BE sells for a given company.

Section 6(B)(2) of Model #218 requires a BE to designate a licensed ~~producer~~ individual as responsible for the BE's compliance with the state's insurance laws, rules, and regulations. This is commonly referred to as the designated responsible producer (DRP). There is no provision in Model #218 to require multiple DRPs if the BE chooses to write multiple lines of insurance. For example, if a DRP holds a life line of authority (LOA) only, and an affiliated producer is authorized to sell property/casualty (P/C) products, it is not necessary for a DRP with a P/C LOA to be named as a second DRP. If the BE is appointed by an insurer to act as its agent to sell, solicit, or negotiate P/C insurance products, then the BE must name a DRP who also holds a P/C LOA.

Model #218 does not give specific guidance on appropriate action to take when a notification is received that the DRP has lost their home state license. A recommended practice is to send a notification to the BE and inform it that the BE license will go inactive unless a new DRP is named and approved within a reasonable number of days.

A BE has an ongoing responsibility to report misconduct of the BE or any of its affiliated producers. Section 12(c) of Model #218 states:

> The license of a BE may be suspended, revoked or refused if the insurance commissioner finds, after hearing, that 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 neither reported to the insurance commissioner nor corrective action taken.

Recommended Best Practices for State Insurance Regulators

- Use the NAIC uniform application for BEs, and eliminate all other state-specific forms.
- Review all state insurance laws and regulations, and amend any that require attachments that might violate reciprocity.
- Review the practical consumer protection value of all information collected, and collect only information that adds value.
- Require only one DRP per BE.
- If appointments are required for a BE, require only one appointment per state, and require no sub-appointments.
- Use electronic filings for more efficiency.

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