

Testimony of the
National Association of Insurance Commissioners

Before the
Committee on Banking, Housing and Urban Affairs
United States Senate

Regarding:
Protecting Military Life Insurance Consumers

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John Oxendine
Commissioner of Insurance
Georgia

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Introduction

My name is John Oxendine. I am Commissioner of Insurance for the State of Georgia, a state that has been active in investigating and preventing sales abuses involving military personnel. Today, I am testifying on behalf of the National Association of Insurance Commissioners (NAIC). We appreciate the opportunity to testify regarding the role of the state insurance departments and NAIC in better protecting military insurance consumers from faulty life insurance products and abusive sales practices.

Today, I want to make three basic points:

- First, America's men and women serving in the armed forces are also American consumers entitled to the same protections under state law enjoyed by all other citizens. Protecting insurance consumers at the local level in the communities where they live has been the hallmark of state regulation for more than a century. Every state in this nation has a strong unfair trade practices law backed by an insurance department staffed with dedicated employees trained to assist consumers who purchase insurance products and file claims.
- Second, state regulators recognize that insurance consumers serving our country in the military deserve special attention from state and federal officials responsible for supervising the sales of life insurance and investment products on military bases in the United States and overseas. We are actively reaching out to military authorities to educate them about state consumer protection resources and coordinate our enforcement activities. The military's chain of command structure emphasizing obedience to superiors poses unique consumer protection challenges

that differ from civilian society. The same training, working, and living environment that produces highly-disciplined and loyal military units to defend America's freedoms can also create pressures on individuals that may negatively affect their ability to make fully independent and informed decisions regarding the most sensible financial products for their own personal security.

- Third, state insurance regulators and the NAIC support federal legislation that would clarify our authority under the McCarran-Ferguson Act and the Gramm-Leach-Bliley Act (GLBA) to supervise the business of insurance wherever it occurs, including military bases. We agree with the Government Accountability Office (GAO) that the federal government should facilitate cooperation among the Department of Defense (DOD), military base commanders, and state insurance departments by opening up lines of communication and sharing relevant information about consumer complaints and known violations. We believe that HR 458, the Military Personnel Financial Services Protection Act, would help achieve those goals. However, the version passed by the House of Representatives needs to be amended to remove unnecessary directives that could undermine state supervision authority under GLBA and deflect state efforts to address the real problems identified by state insurance regulators and GAO.

State Insurance Regulators Have Expertise and Resources to Help the Military

Paying for insurance products is one of the largest annual household expenditures of any kind for most Americans. Consumers – including military personnel – have an enormous financial and emotional stake in making sure the promises made by insurance companies are kept. Because people often have trouble understanding insurance products and sales practices, state governments devote substantial resources toward educating and assisting the public on insurance matters, as well as licensing and monitoring insurance companies and agents. When problems arise, state insurance departments are fully-staffed to handle consumer inquiries and complaints quickly with a local phone call.

People who live and work on military bases are an integral part of the communities where they are located. Like other citizens, they can rely upon the expertise and help of state regulatory staff who are also local residents to understand and benefit from the laws that govern insurance products. As regulators, we are responsible for making sure their legitimate expectations are met regarding financial safety and fair treatment by insurance providers. During 2003, state insurance departments handled approximately 3.4 million consumer inquiries and complaints regarding the content of their policies and their treatment by insurance companies and agents.

NAIC and State Regulators Are Actively Assisting Military Personnel and DoD

As recognized by GAO in its report, “Financial Product Sales; Actions Needed to Better Protect Military Members”, state regulators must be aware of insurance problems before they can help remedy them. Prior to media reports last year, military insurance sales problems were not being brought to our attention because there were few complaints to state regulators about the products involved and there was no NAIC coding of complaints to signify they came from military sources. Once we became aware of problems, enforcement investigations were launched in states where they occurred, and NAIC commenced an active program to educate regulators, military personnel, and DoD about state resources for protecting military insurance consumers.

We believe state insurance regulators and the NAIC are taking actions that will meet the major recommendations of GAO in its report. Here are the key initiatives being undertaken:

- The NAIC set up the Sale of Life Insurance to Military Service Members Collaborative Group, which has 30 states participating. There are currently targeted market conduct examinations underway involving nine insurers.
- The NAIC, in conjunction with the DoD, developed a consumer brochure specifically addressing life insurance information for military personnel. We

have encouraged DoD to make this brochure freely available to members of the armed services during training and on-base at convenient locations.

- The NAIC created an extensive online resource specifically aimed at helping military personnel purchase life insurance as well as other insurance products. In addition to explanations and tips about buying insurance, the NAIC military insurance webpage includes information on how to electronically file a complaint with state insurance departments, as well as links and contact information for the insurance department in each state, links to consumer help sites maintained by the military services and federal agencies, and links to pending legislation in Congress. The military assistance webpage is featured on NAIC's main page at www.naic.org.
- Since becoming aware of military sales problems, state insurance regulators have reached out to the DoD. Diane Koken, the Pennsylvania Insurance Commissioner and NAIC President, visited twice this year with DoD leaders to foster a relationship of ongoing cooperation. The NAIC's efforts include: (1) compiling a list of insurance department contacts for the DoD to ensure military officials have proper information for getting state assistance; (2) updating the NAIC's Complaint Database System form to identify complaints that are submitted by military personnel; and (3) providing the DoD with a state-by-state premium volume summary for those companies that state insurance regulators know are soliciting or have solicited insurance products on military bases.
- The NAIC believes basic financial literacy training of military personnel should include assistance information and contact data for state insurance departments. Many people are not aware these valuable resources exist to help them at no cost as part of state government, or that state regulators can help prevent or resolve insurance problems that occur on military installations not otherwise under state jurisdiction. We intend to keep working with DoD to develop training programs

and materials that communicate with military insurance consumers in clear and direct language which is easily understood.

- During 2006, the NAIC's Life Insurance & Annuities (A) Committee will be reviewing the types of life insurance which has been sold to military personnel in order to recommend a position on the products being offered in the marketplace.
- Finally, state insurance departments already have strong prohibitions against misleading and deceptive sales practices, and will continue to enforce these prohibitions when inappropriate activity is identified.

The GAO report recommends that Congress direct state regulators to conduct legal compliance reviews of existing insurance products, and cooperate with DoD in developing "suitability" standards for insurance products sold to military personnel in the future. The NAIC does not believe Congress needs to "direct" state officials or NAIC to meet their public responsibilities, especially in view of the strong actions taken by them in response to problems identified in the media. While the NAIC will continue to provide full cooperation and technical assistance to federal officials, we believe it is appropriately within the sole domain of DoD to determine what is best for military personnel since DoD understands and is responsible for the military command structure and financial benefits that apply to America's men and women in uniform.

In Order to Better Help Soldiers, State Regulators Need More Help from DoD

In its report, the GAO noted that DoD should provide state insurance regulators with complete access to data on complaints by military personnel, but is reluctant to do so. The NAIC agrees with GAO regarding the need for state insurance departments to obtain all complaint information and administrative actions from DoD as early as possible. Insurance regulators review complaint information and regulatory actions to identify potential patterns and practices of conduct that could indicate violations that might not be apparent to local base commanders. State regulators can take corrective actions sooner

rather than later if timely and complete information is available for review. We encourage DoD to improve its ability to fully share information with us for the benefit of military insurance consumers.

To facilitate state cooperation and information sharing with military authorities on insurance matters, the NAIC plans to invite DoD representatives to attend the NAIC's Winter National Meeting, which will be held in Chicago, Illinois from December 3-6, 2005. Representatives of the federal banking agencies already attend NAIC meetings, and have found it useful as a way of promoting our common regulatory goals under GLBA. We believe personal interaction between DoD and state insurance regulators would further enhance our ability to communicate and protect military personnel from inappropriate sales practices. The NAIC would also like to extend an offer to develop a Memorandum of Understanding between DoD and individual state insurance departments to address any outstanding confidentiality issues surrounding the sharing of information.

Comments on HR 458

HR 458, the "Military Personnel Services Protection Act", passed the House of Representatives by a vote of 402-2 on June 28, 2005, and is now pending before the Senate Committee on Banking, Housing and Urban Affairs. The NAIC would like to offer these comments regarding the sections of HR 458 that affect state insurance regulation.

Section 105 – This section clarifies the jurisdiction of state insurance regulators on federal land and facilities, as well as which state's law should apply. The NAIC fully supports enactment of this section.

Section 106 – This section expresses a Congressional intent that states should work cooperatively with DoD to ensure implementation of appropriate standards to protect armed forces personnel, and additionally that each state should identify its role in promoting uniform standards within 12 months. The section also says NAIC should conduct a study of state compliance and issue a report to Congress.

State regulators and the NAIC are already meeting the intentions expressed in Section 106 through the enforcement of long-standing state prohibitions against misleading and deceptive sales practices, and will continue to do so because we are just as much concerned as Congress about protecting military personnel. Moreover, the statutory intention that states spend their time and resources adopting uniform national standards at the direction of Congress diverts attention and effort from fixing the real problems that occur in states with major military bases, while also needlessly undercutting the equal authority of states as functional regulators of insurance that is mandated in GLBA. As a practical matter, state regulators and NAIC are effectively working together and cooperating with DoD at the present time. Consequently, the NAIC recommends that Section 106 be deleted from HR 458 because it is unnecessary and counterproductive to enhancing the authority of state insurance regulators set forth in GLBA and other parts of HR 458.

Section 107 – This section provides that insurers and producers shall not sell life insurance products to members of the armed forces without proper disclosures. It also provides that states will be involved in enforcing these disclosure requirements. The NAIC fully supports the disclosure and enforcement provisions in Section 107.

Section 108 – This section expresses a Congressional intent that NAIC should consult with DoD and submit a report to Congress within 12 months on ways of improving the quality and sales of insurance on military installations. If NAIC does not submit a report, the GAO is directed to do it. The NAIC has always cooperated fully with requests of Congress and GAO for information and assistance. There is no need for the statutory directive to NAIC in Section 108, since a simple request is sufficient to produce the desired results. The NAIC recommends deleting any statutory inference which infers that NAIC might not meet a Congressional request for information and assistance on military insurance issues.

Section 109 – This section requires that insurers operating on military bases implement a system to check and report to state officials regarding disciplinary actions against producers representing the insurer, and that states set up a collective system to receive such reports. There is also an expression of Congressional intent that states achieve this goal within two years. The NAIC supports the goals of this section, but questions whether a federal statutory directive to states is needed to achieve the desired results.

Section 111 – This section expresses a Congressional intent that state agencies provide advice to federal entities regarding insurance coverage issues. The NAIC is already meeting this goal, and will continue to do so.

Conclusion

All of us share a commitment to assuring that America's armed forces personnel receive fair treatment, solid advice, and strong consumer protections with respect to the insurance products they purchase. State insurance regulators and NAIC are meeting that commitment with effective outreach to the military, useful educational resources, and active enforcement of state laws to protect military insurance consumers. We look forward to continuing our efforts, and to working more closely with Congress and DoD to make the consumer protection system meet the high expectations which military personnel rightly deserve.