The Factors Influencing the High Cost of Insurance for Consumers

House Financial Services Committee

Subcommittee on Housing and Insurance

United States House of Representatives

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Founded in 1931, the National Association of Professional Insurance Agents (PIA) is a national trade association that represents independent insurance agencies and their employees. Our members sell and service all kinds of insurance, but they specialize mostly in property & casualty insurance. They represent independent insurance agents in all fifty states, Puerto Rico, and the District of Columbia.

Background

PIA appreciates the Committee's attention on the important issue of the increasing cost and availability of insurance throughout the country. Other testimony from the witnesses today will focus on the causes of these challenges. Independent insurance agents see the effects of them every day as they service insurance consumers. Recognizing that our members, and thus consumers, benefit from the state insurance regulatory system, PIA's testimony focuses on the importance of protecting those consumers by preserving that system.

Because the state insurance regulatory system is so effective, the federal government should have a minimal role in regulating the insurance industry. The existence of the Federal Insurance Office (FIO) threatens the primacy of state regulation, and, since its establishment via the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, the FIO has relentlessly sought to increase its power.

State insurance departments each regulate the licensing rules and business practices of insurance professionals, including independent agents, who do business in their states. This structure affords the industry with greater local, state, and regional flexibility and allows it to largely avoid our notoriously sluggish federal bureaucracy. State insurance regulation helps to protect consumers by allowing state insurance regulatory authorities to tailor and refine their oversight systems to meet the specific needs of their states' consumers. This system has prevented major financial disasters; indeed, according to a report issued by the Government Accountability Office (GAO) in June 2013, the decentralization of our state-based insurance regulatory system helped to mitigate the damage to the insurance industry during the 2008 financial crisis.

Insurance has been regulated at the state level for over one hundred years, thanks, in part, to Congress's passage of the McCarran-Ferguson Act, which codified the insurance industry's exemption from most federal regulations. At the time, Congress opted to assign the task of regulating insurance entities to the states, and, since then, it has reinforced that position repeatedly in statute.

While McCarran-Ferguson formalized Congress's delegation of this authority more than 75 years ago, states have been the primary source of insurance regulation for over a century. During that time, state-based insurance oversight has worked well for regulators, consumers, and members of the industry because, comparatively, state insurance regulators have greater familiarity with and flexibility to address their residents' specific geographic and economic needs in the context of insurance.

PIA strongly supports our thriving, state-based insurance regulatory system and opposes federal laws and regulatory actions that encroach on it. The existence of the FIO is the epitome of an unnecessary threat to the state insurance regulatory system.

Support for Legislation Noticed for Hearing

PIA was particularly pleased that the hearing highlighted two bills to repeal or reform the FIO: the FIO Elimination Act and the Insurance Data Protection Act, both of which we strongly support. PIA has supported the repeal or reform of the FIO for years. In November 2016, PIA became the first national insurance association to publicly call for the repeal of the FIO, and its repeal or substantive reform remains a top priority.

Federal Insurance Office Elimination Act, H.R. 2933, Sponsored by Rep. Ben Cline (R-VA)

The proper place for the regulation of insurance is at the state level, and the state regulation of insurance has served the insurance industry and consumers well for over one hundred years. PIA opposed the creation of the FIO from the outset; the best way Congress can protect the state insurance regulatory system and consumers is to fully repeal the FIO by passing the FIO Elimination Act.

Many of the FIO's duties are duplicated elsewhere in the federal government and among state insurance commissioners. The FIO's authority has continued to expand in recent years. The Biden administration issued a 2021 Executive Order (EO) asking the FIO to assess climate risks to carriers and identify sources of coverage disruption in geographic areas prone to climate change. After the administration issued the EO, the FIO contacted state insurance departments to request zip-code-level data about property insurance coverages, liabilities, and losses and the FIO then announced its intent to conduct a climate-related financial risk data call, among other activities. FIO's work on its data call appears to be ongoing at the time of this hearing. Additionally, the FIO is using the EO as a pretext to investigate other areas, like flood insurance, which is regulated elsewhere at the federal level and is plainly outside FIO's mandate.

The FIO Elimination Act would not prohibit the Treasury Department from completing tasks currently assigned to the FIO, like international negotiations and the administration of the Terrorism Risk Insurance Program. However, its passage would greatly reduce the threat of a wholesale federal regulatory takeover of the insurance industry by eliminating an unnecessary federal office that appears to endlessly seek to expand its scope.

Insurance Data Protection Act, H.R. 5535, sponsored by Rep. Scott Fitzgerald (R-WI)

The Insurance Data Protection Act would repeal the FIO director's most powerful tool: its subpoena power and establish confidentiality procedures and disclosure requirements governing the way data could be used by financial regulators. The elimination of the FIO's subpoena power will help to counteract the FIO's ever-expanding reach. The bill would also require the FIO to coordinate with state insurance regulators and consult publicly available sources to gather readily available data and limit unnecessary or duplicative efforts. It would also set forth confidentiality procedures and disclosure requirements governing the way financial regulators can use insurance carrier data, once collected. Finally, it would protect consumers by limiting the sharing of non-publicly available data with or by the FIO and other federal agencies and state insurance regulators. This bill would reset the balance of power between the FIO and state insurance regulators.

The FIO Elimination Act would protect our strong state regulatory structure by fully repealing the FIO. At the same time, we also support reforms that meaningfully reduce the FIO's power, particularly in domestic matters. The Insurance Data Protection Act would be a crucial step toward restoring the primacy of the state regulation of insurance.

Discussion Draft Resolution, Sponsored by Rep. Warren Davidson (R-OH)

PIA strongly supports the draft resolution noticed for today's hearing by subcommittee Chairman Warren Davidson (R-OH) expressing Congressional support for the McCarran-Ferguson Act, the primary statutory authority on which the state insurance regulatory system relies. The resolution makes clear that the states are best positioned to protect the insurance consumers in their regions and that Congress should protect McCarran-Ferguson from attempts to undermine it.

Conclusion

The states are the appropriate vehicles for the regulation of insurance; state regulation has served the insurance industry and consumers well for over one hundred years. Any attempt to increase the role of the federal bureaucracy in the regulation of insurance would negatively affect policyholders, the insurance industry, and, ultimately, the national economy.

Congress should repeal the FIO or significantly curtail its mandate. Congressional imposition of a substantial limitation on the FIO's growing authority is a necessary step toward protecting the primacy of state insurance regulation and preventing further federal encroachment.

PIA will continue to cultivate support for FIO repeal or meaningful reform legislation throughout the remainder of the 118th Congress.