National Association of Professional Insurance Agents
400 North Washington Street, Alexandria, Virginia 22314
General Phone: 1-703-836-9340 and FAX: 1-703-836-1279
General E-mail: piaweb@pianet.org & website: www.pianet.com

Testimony of Steve Harter
President, National Association of Professional Insurance Agents
before the House Financial Services Subcommittee on
Capital Markets, Insurance, and Government Sponsored Enterprise
June 4, 2002
2129 Rayburn House Office Building

HARTER: Thank you, Mr. Chairman and members of the Committee.

My name is Steve Harter. I am an independent insurance agent and I own my own insurance agency, Select Risk Management, in Ava, Missouri.

This year, I have the honor of serving as president of the National Association of Professional Insurance Agents. Founded in 1931, PIA is a national trade association that represents member insurance agents and their employees who sell and service all kinds of insurance, but specialize in coverage of automobiles, homes and businesses.

On behalf of PIA and its members, I would like to thank you for this opportunity to testify before the committee.

Profile of the PIA Member Agency:
Like me, PIA National members are the owner/principals of their independent insurance agencies. They employ an average of seven to nine full-time individuals including themselves, who are licensed as insurance producers. Additionally, they employ two to four individuals who are not licensed producers. Our members represent an average of between five and seven property and casualty carriers and two to three life and health carriers.

PIA agencies provide their individual clients with personal lines insurance (such as homeowners and auto). In addition, they provide small-to-mid-sized commercial business clients with property and casualty, as well as life and health individual and groups products.

Over 40% of our member agencies write farm business and are agents in the Federal Crop Insurance Program (FCIP) through their private sector carriers. Seventy percent of PIA members also write federal flood insurance through their private sector carriers. Also, because of their expanding engagement in the life business, 40% of PIA member agencies employ individuals that are licensed securities producers.

On a regular basis 10-25% of PIA members' books of business require placement in the non-admitted specialty market. This means that in the regular course of their business, PIA member agencies conduct both agent and brokering activities for commercial lines in the property and casualty business.

PIA members actively operate in two to three additional states or insurance jurisdictions, in addition to their state of residence. They passively service commercial exposures for their insureds in an additional two jurisdictions. Over 25% of our member agencies operate regularly on a five-or-more state basis with several national insurance programs.

PIA member agencies are also directly responsible for securing the resident licenses of all designated employees, including the pre-licensing and continuing education, as well as licensing fees in all required lines of business and jurisdictions. Naturally, they are also responsible for their corporate and insurance business entity filings, again in all required jurisdictions. As owner principals, PIA members are also responsible for requesting appointment of their various staff with the carriers with which they are doing business.

Mr. Chairman, as you have asked us to do, PIA will outline some of the key competitive challenges faced by multi-state insurance producer operations, to include countersignatures laws.

Reforms for Producer Oversight:

PIA is absolutely committed to reform of the insurance oversight system, in a manner that maintains effective oversight for public protection. This includes solutions to the still existing frustrations with the producer licensing and oversight system.

However, meeting a minimum standard is not what PIA is after. PIA wishes to reform the whole system in a fair and balanced manner that equitably treats those producers that are only licensed and operate in one state (not the typical PIA member) and also creates appropriate open borders for the vast majority of independent insurance agencies and brokerage firms that operate daily in multi-states.

Why nothing less than the NAIC Single License Producer Model Act is acceptable as the foundation of reform:

The progress that has been made with the new NAIC Single License Producer Model Act (SLPMA) has been wonderful. PIA also fully appreciates the influential role played by GLBA/NARAB and continuing federal interests through subsequent hearings such as these, in pointing states toward the direction of their reforms and providing the encouragement and pressure to achieve these in a timely manner.

But state adoption of the NAIC SLPMA is only the first step. Along with others in the insurance community and the NAIC, the National Conference of State Legislatures (NCSL) and the National Conference of Insurance Legislators (NCOIL), we are moving forward on the next ring of regulations that must be changed countrywide and made more uniform.

While the issues we will note and discuss today are by no means the total list, they are issues that demonstrate particularly well the holistic cooperative requirement from many bodies of law.

NAIC SLPMA immediately reforms:

This NAIC model has not yet been adopted in all jurisdictions. Further, some of the states that have designated themselves as NARAB compliant by virtue of reciprocity only are states that have not had any previous reform/updating to past NAIC producer models. Hence, these minority jurisdictions still pose challenges in the following lead areas:

Countersignature Laws – In 1970, PIA adopted a position encouraging the repeal of these laws, recommending the type of replacement provisions that were needed to assure that an in-state person would be available for service of process and that state premium taxes would be properly accounted for. In 1972, PIA amended its policy to oppose these laws and work for their repeal.

In 1986, PIA further amended this position to make clear that we opposed not only countersignature (CS) laws, but also the secondary level of insurance statutes that, while not technically called or classified as CS laws, acted in concert to frustrate open non-resident participation. These would be laws that require a resident agent of the county in which the risk exists, deliver all insurance policies issued on exposures in the state. PIA's position on this issue was included in the 1987 NAIC revised Agent and Broker Licensing Model Act and the first NAIC Single-License Producer Model Act.

Much progress has been made on the repeal of the CS laws themselves; only a few remain. PIA appreciates and is sensitive to the unique market and public policy circumstances that exist in Florida and Nevada with regard to the use of their CS laws in a broader rubric of consumer protection. However, we submit that these issues can be solved without the CS law.

However, less progress has been made on the secondary level of statutes that acted in concert with countersignature laws. In some states, the per se countersignature law was repealed, but the companion statutes were not.

Example - As is many times the case, should a commercial client of mine secure a business operation in one of these states I would be required to:

Under countersignature laws:

- Secure the services of a resident, countersigning agent from that state that my client will not know, and whom I might not know either.
- This resident agent must already be licensed in this state to write the nature of coverage for client's new operation in that state, as well as already be appointed by the carrier with which the client already has placed all the other aspects of business operations outside that state.
- As the principal producer on the full account, I must still be sure that all forms and the carrier area authorized to write & issue the nature of coverage being secured.
- The in-state agent would then technically "place" the business through merely countersigning the policy form and collect a fee for service.

Under a state with the secondary statutes:

- I may be able to perform all the regular tasks and issuance of coverage for my client. However, the state law may require that I deliver a copy of the policy in full or for the specific exposure in that state to the business location and through the services of an in-state, resident agent operating in the county where the business is located.

Single license producer vs./ agent or broker license available: PIA, along with a core group of progressive regulators created the single license producer model concept. Adopted first in Missouri and Kansas in he early 1980s, we brought the concept to the NAIC in 1984 to set the stage for the first NAIC model. Unfortunately, we still have a number of jurisdictions that have yet to adopt this format. This is a problem because the

nature of our business requires that we perform both functions for clients' insurance needs. Thus, in these states we are required to secure both agent and broker licenses as resident producers. As non-residents, we must select one or the other, thus limiting the type of activities to be performed for our client in that state.

Agent-only jurisdictions These jurisdictions do not recognize the broker/brokering status, something fundamentally required for the independent agency/broker property and casualty business and for our clients, whether on a resident or non-resident basis. This creates problems particularly on a non-resident filing. If in my resident state I am licensed under the single-license producer approach, and by nature of my business operations acting in a broker capacity, I would be forced to evolve into an agent for non-resident purposes in these jurisdictions –something that may not be possible or wanted because of the nature of my business.

Individual vs. Business Entity –PIA supports the availability of both an individual and insurance agency/brokerage business entity license. Under this approach all individuals engaged in producer activities are required to be individually licensed. However, in addition to that the insurance agency may also be subject to an insurance business entity license. Many, but not all states have adopted this approach, one reflected in the current NAIC model. In order for a non-resident system to be open – every insurance jurisdiction must have compatible types of persons being licensed. Today, several states only make available an individual producer license.

There are numerous public policy reasons why insurance departments should have both types of licenses. However, specific to non-resident filings in jurisdictions that still only have individual licenses available – it forces PIA member agencies that operate on a business entity basis to only have one of their individually licensed staff members file as non-resident in these states. This creates numerous legal, insurance appointment and tax issues for such agencies, and in PIA's opinion lessens the comprehensiveness of the state's regulator oversight of the insurance operation.

Reform Issues NOT Dealt with in the current NAIC model:

Foreign Corporation Filings: This is an example of other (non-insurance) government officials applying a one-size fits all solution to state tax problems caused by general commercial Internet activities.

Encouraged by concerns voiced by state Attorneys General and executed by the Secretary of State, persons operating in what we in insurance would consider a non-resident state must first file for and secure a foreign corporation license permitting them to enter the state. That process requires completing an application, paying a fee which is generally hundreds of dollars and, in some states, appointing an in-state law firm selected from a state provided list for a fee, again generally two or more hundred dollars, to act as the foreign corporation's office for service of process.

Once in the state, insurance producers must still go through the already established non-resident process that, for most states, involves taking their foreign corporation license and

filing for an insurance nonresident business entity license, and then filing for the required individual licenses, paying all these fees as well.

PIA supports the insurance process. Insurance Departments have the structure, authority, expertise and experience with non-resident activity in their state for over 150 years. They have the system that the Attorneys General lacked in other areas of commercial activity in their state.

However, PIA wants insurance producers relieved of foreign corporation filings because they are duplicative of what we are already doing in the state and no other commercial participants are thus subjected. The costs of filing in these jurisdictions that are increasing monthly are as high as $1200 per license.

Background Checks: PIA has long supported quality background checks of all persons seeking an insurance license, to include officers and controlling interests of the insurance business entities. PIA worked on and supported H.R. 1408 to both support better access for our regulators to the broader federal criminal background files and correct the serious constitutional problems with 18 U.S. C. 1033/1035, with its disparate treatment of the insurance industry compared to the banking and equities industries. PIA is grateful to this Committee and its members for having the good sense and commitment to make the provisions contained in H.R. 1408 real.

However, while attempting to work out coordination issues with the NAIC to be used in The Several States and through the National Insurance Producer Registry (NIPR)*, there is a growing problem regarding a lack of coordination with the individual state Departments of Insurance as they independently expand their authorities and interfaces for these background checks on their own, with state criminal and single state access to federal criminal databases. Further, there is a sharp difference among states in that some require fingerprints and others do not. This becomes even more of a problem given the language of NARAB in GLBA.

Therefore, PIA Board adopted a position last September making it clear that we support H.R. 1408 as the process along with the one time, electronic fingerprinting of all persons currently licensed, and all applying for a license, in their resident state. This process should be recognized on a reciprocal basis for a non-resident license filings, as well. The one-time electronically collected and maintained fingerprints may be subjected to additional review if there is an investigation underway, the facts of which warrant this prudent action, or on a periodic basis – encompassing no more than 5-year cycle.

However, PIA is very concerned with the current system which is ink and paper oriented – where it exists. This process is a one-time, use-only process, subjecting our multi-state members to multi-fingerprinting process per year. Further, the explosion of fees tacked on by several state and federal agencies is again creating a cost-prohibitive system for either the agent/broker to afford directly, or even if those costs are shifted to carriers, which PIA does not support.

Solutions:

As stated earlier – all four forms of reform approaches are needed. This is why we have been working with NAIC/NCSL/NCOIL, PIA affiliates and other industry interests on proposals for all four areas. This includes a federal proposal, the details of which you will hear more in future hearings from our proposal partners, the Independent Insurance Agents and Brokers of America (IIABA). We see these efforts acting as a refinement and improvement on GLBA/NARAB, and supporting NAIC's et. al. current reform efforts in all these areas, providing us collectively with the support to get these reforms on the agenda of state legislatures. Further, for states that have not yet embraced the reform effort, this process would leverage them into the family.

However, optional federal charter proposals do nothing for these issues because of the dual-track nature of their concept. Most do not even address producer concerns in this area, and to fit their proposal's framework, they would most likely not work with NAIC, NIPR and all the current reform investment made in The Several States.

PIAs' Evolving Position on State Regulation:

On a daily basis, PIA member agencies, representing the typical independent retail insurance agency serving local communities must operate and comply with all the appropriate state and federal insurance and business laws that apply to their operations, in multiple jurisdictions. PIA members fully accept and support this multi-law application.

However, PIA members can no longer bear the cost and processing time of a dissimilar and conflicting multi-jurisdictional environment, and a compliance system that is outdated and does not move in rhythm with the pace of today's market.

But permit me to make it abundantly clear: this does not mean that PIA thinks the current system of insurance regulation is broken, cannot be fixed or should be eliminated. Quite the contrary -- despite its problems, the current state-based system is the most efficient vehicle for ensuring common sense regulation and competitiveness in the 21st Century. What is needed is reform to this system.

History of PIA Reform Efforts – When PIA began to introduce into The Several States for passage the 1977 NAIC Continuing Education Model Act, we learned many things about what was then the oversight system for insurance agents and brokers. One of them was that the system had not be reformed in most states since its inception over 100 years prior, and even in "progressive states" most statutes were over 50 years old.

So beginning in 1980, PIA National undertook the first full scale review and evaluation of the state insurance oversight system for insurance agents and brokers. Our purpose was to update and streamline the system. Working both with PIA's state affiliates and key progressive regulators in a number of states, and bringing this agenda to the National Association of Insurance Commissioners (NAIC), PIA led and chaired the NAIC-industry effort to create the first Single License Producer Model Act, as well as the concept of Continuing Education (CE) reciprocity. PIA worked state-by-state, most

times alone with no other industry support, and was able to achieve these reforms in 28 states.

PIA has continued to actively participate in the creation and updating of associated NAIC models., The support and full commitment of PIA state affiliates has allowed us to carry that reform agenda through state legislatures. Sometimes these efforts have not been successful, due principally to differences of opinion among industry interests, but also because of conflicts with a state's insurance department or legislature.

Influence of GLBA – However, with the passage of the Gramm-Leach-Bliley Act in November 1999, PIA understood that we needed to express our support for the state oversight of insurance in a new way.

PIA fully appreciated that the passage of GLBA meant that Congress had formally and legally created the financial services industry, in which insurance was now a segment. Further, PIA knows from our experience with other federal insurance legislation (such as federal flood, crop, ERISA, Longshoreman's, black/white lung funds) that what Congress creates, Congress continues to "perfect" through further hearings such as this one, and follow-up legislative activities.

Additionally, because of the increasing multi-state (and some international) exposures of our members' clients' business, we realized what is needed is an insurance oversight system that moves in a more collaborative, collective, shared and uniform manner. The systems structure and pace must also be compatible with a today's fast-moving and rapidly evolving marketplace. Lastly, it has to be a system which better complements and coordinates with the growing federal insurance component.

Therefore, in May 2000, March 2001, and again in September 2001, the PIA National Board of Directors:

(1) restated its support of functional-state regulatory oversight of the insurance sector;
(2) (2) that reform of this sytem achieve a collaborative, shared-resources, uniform, effective system better coordinating with the other federal and state financial services regulators, and related aspects of state and federal laws
(3) (3) to use all all four methods of reform, i.e. (a) NAIC/NCSL/NCOIL model acts; (b) state-by-state legislative/regulatory actions; (c) leveraging more quickly and uniformly, as well as driving further depth of reform through the use of multi-state compacts; and (d) bettercoordination e with current and continuing federal efforts.

This four-prong coordinated approach to reform creates a whole, single system operating by the same rules, directed toward the same purpose and processes.

As PIA's words and actions have demonstrated, we are committed to real, meaningful, speedy and successful reform of the oversight system for insurance. PIA believes the whole system must be reformed in a manner that makes it more uniform and

contemporary in its public policy meaning and effectiveness, as well as processing and serving the speed and competitiveness needs of licensed/regulated constituents.

Why State – The bodies of law to which our policies must respond are primarily state-based legal systems: contract, tort, property, health, family law, inheritance, etc. Therefore, the state court system is broad, deep and generally consistent in its demand relative to the meanings of our policies and expectations as respects our industry practices. This has been reflected in the detail of the state-by-state insurance regulatory system, one that is far more detailed than any other industry sector in the economy.

Also, the state oversight system is closer to the people who are in a better position to know and reflect state court decisions. As has been demonstrated in property and casualty and health insurance, market conditions and other issues may arise, affecting one state or region of the country in a unique fashion, different from other geographic areas. Consequently, there is always a need to be immediately responsive in a targeted manner.

These conditions best play to the strengths of state regulation.

Why federal – PIA appreciates the unique role that the federal government either needs to play or decides it will play in insurance related matters. As a result, current federal law related to insurance is a daily reality in PIA members' operations. Also, it is daily complicating the marketplace because, by and large, it is not written to relate, connect, complement or integrate with the existing rubrics of insurance law, be they statutory or common law. It also does not recognize or appreciate the required coordination insurance law must have to other bodies of state-oriented common law to which many insurance participants are responsible.

Why coordinate- It is imperative that we create understanding and legal refinements and improvements to bring both the existing and future federal obligations impacting insurance into alignment with these other material, significant bodies of state law. This needs to be done while still reforming the state functional oversight system of insurance, as well. The end result must form a single, cohesive and far more successful regulatory oversight structure for the public, regulations and participants.

As PIA Board members put it to our staff during our September Annual Board meeting, we understand that despite what we'd like, there will be these four areas of active ongoing reform to insurance. At the end of the day, it is your job to be sure that all four end up in the same place and create one understandable system. And the best way to do that is to be involved and contribute to all four, working them into coordination.

PIA Opposes Federal Optional Charters:

PIA has and will continue to oppose federal optional charter proposals, because at their core of purpose and practice they are meant to be a two-tier, shadow insurance system that runs parallel to the current system. They create, at best, a federal competitive system with The Several States and at worst, invite or create conflicting rules and processes. This

adds a 56th insurance jurisdiction to our members' current 55-insurance jurisdiction compliance reality.

Further, the federal optional charter concept naively and incorrectly assumes that because some financial service operations can more easily select exclusive participation in the federal system over the state system, or vice versa, this means that servicing the insurance needs of consumers will be cleanly split between these two worlds, and that "federal consumers" will be marketed and serviced by producers that only represent federal entities, and vice versa. This is an understandable view if one only looks at the marketplace, applying a singular organization to insurance company operations.

However, insurance products are designed to serve the constantly varying needs of consumers who live and work at the floor of the marketplace and in every state, with occasional needs outside the United States. As a result, any producer that commits themselves to the independent insurance agency and brokerage system -- irrespective of their size -- knows that they have always had a mix of carriers and carrier types, i.e. alien, national, regional, single-state, county, reciprocal, cooperatives, national purchasing groups, risk retention groups, other forms of self and group insurance, as well as admitted, non-admitted and alien-registered trust companies, not to mention some federal insurance programs.

Not all PIA member agencies need all these types of insurance offerings or entities at all times. But all PIA member agencies deal with several of these types and over time, most PIA member agencies will have dealt with all these types in order to best meet the insurance needs of their clients and communities, through all types of market, economic and carrier appetite conditions.

So therefore, PIA members always have and for the foreseeable future always will be representing a mix of these carriers, which in part are not now subject to the same regulatory oversight, statutes or process, and which will only be exacerbated under a federal optional charter structure. Consumers, as well as agents and brokers, will need to add to their placement assessment:

- Financial soundness
- Quality of coverage and practice
- Reasonably competitive price
- Scope of underwriting class and insured profile tolerance
- Federal or state regulatory system – which is of best benefit?

This is not an evaluative assessment that most consumers can make, will have the time to make, or should be forced to make, by financial service entities desiring this system for their own competitive advantages and corporate structure needs.

Insurance carriers need, and have at will exercised, their right to change their underwriting appetites to respond to overall changing market conditions, as well as their own internal corporate needs. Accordingly, a particular course set by many carriers may

not be the course they will continue in three or so years. Current market conditions and carrier behaviors as a necessary response to the market pressures, exacerbated by the September 11 events and the lack of full Congressional action on a federal backstop for terrorism insurance, is a perfect example to illustrate our point.

Independent agents and brokers who are committed to a broad and varied access to insurers for their clients' needs better allow carriers to make these modifications without catastrophic market dislocations.

Adding a choice between federal vs. state oversight systems to the already complicated and challenging maneuvers required to be undertaken when an agency or brokerage transfers business to a new market or carrier, does not serve consumers or the economy. Of course, it may serve the competitive plan of a particular financial services entity, but PIA does not believe that is the purpose of policy or federal law.

Thank you very much for the opportunity to share with the Committee PIA's actions and concerns on this important issue.