

Chapter 4

Nonresident Licensing

The previous reciprocity provisions of the Gramm-Leach-Bliley Act (GLBA) adopted in 1999 required that barriers to nonresident producer licensing be eliminated. The *Producer Licensing Model Act* (#218) 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 Model #218.

There are four key components to licensing reciprocity:

1. Administrative procedures.
2. Continuing education (CE) requirements.
3. Elimination of any limitations on nonresident.
4. Reciprocal reciprocity.

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.

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

Section 8(C) of Model #218 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 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 Model #218 also extend to surplus lines producers. A majority of the 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 Model #218 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 Model #218, 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

The 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., Washington, DC or the U.S. territories. The National Association of Registered Agents and Brokers (NARAB) Working Group stated that it was not a violation of GLBA reciprocity requirements if a state required nonresidents to provide proof of citizenship; however, under the Uniform Licensing Standards (ULS), it is the responsibility of the resident state to verify an applicant's citizenship status.

Reciprocal Reciprocity

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

Model #218 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 LOA. There are some states that did not adopt all the reciprocity standards previously required by the GLBA in 1999 and currently reflected in Model #218. The answers to the following examples will vary when a nonreciprocal state is involved. Examples also can be found in the Working Group's Frequently Asked Questions (FAQ) contained in Chapter 2.

- 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. State D should issue the license and may not require the producer to complete either an examination or prelicensing education; State D should verify that the license was in good standing in State A via the State Producer Licensing Database (SPLD).

- Example B

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

What should happen: State B issues a license that has multiple LOAs, including a surety 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 Model #218 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 LOA, as defined in Model #218. A second challenge is that the records on the SPLD and/or National Insurance Producer Registry (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 on variable products. The nonresident state must then decide if the applicant should be granted a license.