



## Protecting the Right to Organize Act (PRO Act)

**THE ISSUE:** On March 9, 2021, the U.S. House of Representatives passed H.R. 842, the Protecting the Right to Organize Act (PRO Act) along mostly party lines. S. 420, the companion bill in the U.S. Senate, currently awaits legislative action. This wide-reaching bill seeks to reform current labor law in a variety of areas. Impacting the insurance industry, the bill amends the National Labor Relations Act (29 U.S.C. 152(3)) by adding language that expands the definition of “independent contractor” by adopting an “ABC” test to define who is an “employee.”

The PRO Act redefines the relationship shared between insurance producers, independent broker-dealers (IBDs), and independent financial advisors (IFAs) with the insurance industry. This relationship ensures consumers have the greatest access to products being offered by the insurance industry. Creating a new standard that does not exempt these vital individuals from the PRO Act’s ABC test severely limits the scope of insurance products consumers would have access to as well as general distribution of insurance products and investment advice, thereby limiting consumers’ ability to protect themselves and their loved ones.

Existing regulations of insurance producers, IBDs, and IFAs creates a landscape with established controls of an already well-established industry. Independent contractors working within the framework of the industry choose to operate under existing rules because it allows them to cultivate their own small business enterprise which they independently control and operate. For this reason, Congress has historically left the regulation of the insurance industry, including the licensure and regulation of insurance producers, to the states.

**NAIFA POSITION:** The independent contractor/statutory employee model is the distribution model that most insurance companies and producers adhere to within the insurance industry. This working model is essential to providing consumers with the greatest protections and access to insurance products.

California’s recent Assembly Bill 5 addressed the independent contractor test and specifically created an exemption for insurance producers, registered representatives of broker-dealers, and financial advisors and should likewise be adopted in any legislation under consideration at the federal level. NAIFA believes that only with this exemption for the insurance industry will Americans receive the full range of products they seek.

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