



Worker Classification/ABC Test Bill

TESTIMONY OF THE NATIONAL ASSOCIATION OF INSURANCE AND FINANCIAL ADVISORS – state

Before the **Committee Name**

Date

Bill number and title

Chairman **name** and members of the **Committee Name**, I am speaking on behalf of the **State** Chapter of the National Association of Insurance and Financial Advisors (NAIFA) to express our opposition for **bill number**.

NAIFA represents the interests of more than 20,000 licensed insurance agents and financial advisers across the country. Ninety percent of NAIFA members serve middle-income clients and/or lower-income individuals and families. The **State** Chapter has close to **###** members that serve our community.

Bill number would implement an ABC test to define who is an “employee.” It would redefine the relationship shared between insurance producers, independent broker-dealers, and independent financial advisers with the insurance industry. The existing 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 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.

The great majority of individuals who are employed by an agency or brokerage, particularly in the sales area, are not employees but independent contractors. I would like to clarify a bit on these different types of sales systems in the insurance business.

On the property and casualty side of the business, there are independent agents and brokers. These professionals are licensed as broker/agents by the Department of Insurance and are often licensed as both business entities and as individuals.

Independent agencies or brokerages can range from national and regional organizations down to small businesses and even individuals working out of their home.

Independent insurance agents and brokers usually are appointed as agents by several different insurers. The strength of this delivery system lies in having access to multiple insurers and markets for insurance coverage.

Independent agents and brokers are most often licensed both as a business entity with the owners individually licensed as well. They obtain their own business license, maintain business insurance, have a



written agency or brokerage agreement with insurers to sell insurance and they own their book of business which they may sell or transfer.

Exclusive agents are agents who are associated with and place the great majority of their customers with one insurer. These are agents that write for Allstate, Farmers, State Farm, etc. Depending on the relationship with the insurer, exclusive agents may also place insurance business with other insurers where the coverage is not offered by the associated insurer.

Like independent insurance agents and brokers, exclusive agents are licensed as broker/agents, have their own business insurance and license, have a written agreement with their primary insurer and own their book of business. Because these agents are associated with one insurer, there can be restrictions on transferring their business to other agents of the same insurer. Nonetheless, these agents are true independent contractors.

Direct writer agents are agents that work for an insurer that markets to customers via the internet or 1-800 number. These insurers generally utilize call centers, often located in another state, to interact with customers. GIECO, USAA, the California Automobile Clubs are a few examples.

Life insurance sales operate with the same types of delivery systems. Small independent agents dominate the life lines of insurance along with direct writers. Again, the independent contractor model would be the rule in these fields of insurance.

Regarding insurance agents and brokers, those relationships can consist of sole proprietorships, partnerships and corporations. Within these arrangements there are agency owners, sales people, consumers services personnel and support staff.

Non-owner individuals employed by these companies are employees as opposed to independent contractors. However, particularly in the sales area, there are independent contractors. In addition, a number of smaller insurance agencies and brokerages are virtual companies who contract out backroom activities, support and sales. They own their books and they have been passed down for generations. If converted to employees, that would be a taking of their business.

In conclusion, the strength of the insurance industry is in the diversity of businesses that have been developed to respond to what customers need for various types of insurance products and coverages. The majority of these businesses are, and have traditionally been, based on the independent contractor model. This is not a gig economy phenomenon. A 2021 survey of NAIFA members reflects the concern of these professionals who generally operate their own small businesses. Ninety percent receive income reported on a 1099, 94% do not want to be treated as an employee for union organization and 95% of surveyed members are operating as an independent contractor and do not want that to change.

Thank you for your time on this important matter.