NCOIL: Impacting State Insurance Policy

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National Conference of Insurance Legislators (NCOIL)

Legislators working together for sound insurance public policy

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What is NCOIL?

- Legislators working together for sound insurance public policy.
- All states are NCOIL members.
- NCOIL helps legislators make informed decisions on issues affecting their constituents.
- NCOIL opposes federal encroachment of state authority over insurance, authorized by McCarran-Ferguson in 1945.
NCOIL Purpose & Goals

NCOIL seeks to:

- educate legislators in order to establish sound insurance public policy
- provide balanced perspectives on issues to enable informed decisions
- voice state legislators’ views to Congress, regulators, executive branch, and other state and federal agencies
- preserve state authority over the regulation of insurance
- reform state regulation, when appropriate
How Does NCOIL Do It?

Provides legislators with a national forum to:

- share views on emerging and perennial issues
- compare legislative successes and failures in states
- hear balanced testimony from interested parties
- develop positions and model legislation
Educating Legislators: At Meetings

NCOIL educates legislators by:

- hearings and panel discussions providing pros and cons on issues
- workshops run by academics and experts
- luncheon speakers and debates on critical issues
- legislative roundtables for exchange of ideas
- balanced input from interested parties
- committee and special meetings on model laws
NCOIL Committees

NCOIL Committees reflect differing lines of insurance:

- Financial Services & Investment Products Committee
- Health, Long Term Care & Health Retirement Issues Committee
- International Insurance Issues Committee
- Life Insurance & Financial Planning Committee
- Property-Casualty Insurance Committee
- State-Federal Relations Committee
- Workers’ Compensation Insurance Committee

NCOIL Task Forces:

- International Issues Task Force
- Unclaimed Property Task Force
NCOIL Process

- Issues brought to NCOIL Committees from interested parties
  - legislators, regulators, consumer advocates, insurance reps, associations. . .

- NCOIL Committees review issues, declare interest, add to charges.

- Committees may develop model legislation, a resolution in support/opposition, send letters to Congress and other entities.

- In order to be considered, models, etc., must be sponsored by legislator.

- Committee will hear all sides of issue.

- NCOIL models, resolutions, etc., eventually go to Executive Committee for a vote to adopt/amend/decline.

- Models, etc., are sent to insurance committees in state legislatures.

- State legislatures review, adapt, and adopt models as they wish.

- NCOIL models, etc., are considered to have merit due to inclusive and transparent vetting and development process.
Success of State Insurance Regulation

- State insurance regulation works well—and is NOT in need of federal reform.
- States are best equipped to regulate their own markets.
- States have expertise and experience, developed over time.
- State efforts are more informed than federal efforts.
- State responses are always more immediate, as they are nearer & dearer.
- States have a good track record, as compared to some federal programs.
- States are making strides to modernize and achieve uniformity, where needed.
- States continue to improve regulation.
Success of State Insurance Regulation

- Even detractors cannot deny that:
  - In terms of market share—the U.S. represents a third of all premium volume in the world.
Federal Initiatives

- So-called “federal insurance reform” should not be tied to bank, thrift, and securities reform—as insurance regulation did not cause the financial crisis.

- Yet in the last few years, the Feds have introduced more legislation to regulate insurance than in the last few decades.
Dodd-Frank created CFPB as an independent federal agency to protect consumers by carrying out federal consumer financial laws.

NCOIL urged Congress to exclude from CFPB any insurance—including credit, mortgage, and title.

The “business of insurance” is specifically excluded from CFPB jurisdiction.

But CFPB may exercise authority when there’s nexus in sale of insurance and provision of financial products/services, such as in title, mortgage, consumer credit, and force-placed insurance.

The CFPB is also exploring areas of senior financial designations, which primarily affect the annuities industry.
Federal Insurance Office (FIO)

- FIO was created by Dodd-Frank Act in 2010, was not given direct authority over insurance.

- FIO was given authority to:
  - consult with states, monitor ins. industry
  - monitor access/affordability
  - recommend insurers for heightened supervision
  - help administer Terrorism Insurance Program
  - coordinate/develop international ins. policy
  - represent U.S. at International Association of Insurance Commissioners (IAIS)
  - determine preemption of state laws by international policy
  - submit reports on state of US insurance industry, how to modernize U.S. regulation...
Federal Insurance Office (FIO)

- NCOIL continues to dialogue with FIO.

- Concerns have been expressed over “mission creep” and transparency and accountability.

- FIO released December 2013 modernization report.

- The report recommends a “hybrid” system of state and federal regulation.

- The report recommends state near-term reform—solvency oversight, principle-based reserving, captives. . .

- The report contains recommendations for direct federal involvement in, among other things:
  - covered agreements for reinsurance collateral
  - regulation of mortgage insurance
Federal Insurance Office (FIO)

What NCOIL is Doing

- Sent a Dec. 2013 letter to the U.S. House Financial Services Committee Housing and Insurance Subcommittee, saying:
  - state regulation was successful during financial crisis
  - NCOIL has formed an International Issues Task Force
  - and requested support for state policymakers place at the table in federal-level insurance discussions

- Continue to monitor FIO activities/reports, e.g., an April 10, 2014 FIO RFC on availability and affordability of auto insurance

- Continue to press for FIO-NCOIL formal meetings, as agreed-upon.

- After NCOIL urging for state lawmaker participation, Rep. George Keiser, NCOIL Past President, in August 2014 was appointed to 21-member FIO Federal Advisory Committee on Insurance (FACI).
NCOIL Unclaimed Property Model

2011 NCOIL Model Unclaimed Life Insurance Benefits Act

- requires insurers to semi-annually match Social Security Death Master File (DMF) records with in-force policies/retained asset accounts

- exempts credit life, accidental death policies, pre-need funeral contracts and ERISA/federal employee plans

- calls for timely insurer efforts to
  - confirm an insured or account holder’s death
  - locate any beneficiaries
  - provide claims forms and instructions

- outlines—if benefits go unclaimed—a process for insurers to notify state treasury departments and to escheat the funds

- since adoption the NCOIL model has been enacted in fifteen (15) states—AL, GA, IA, IN, KY, MD, MS, MT, ND, NM, NV, NY, RI, TN, VT—and is pending in six (6) others—IL, LA, MA, NC, OK, PA—in 2014 legislative sessions.
NCOIL Unclaimed Property Task Force

- Task Force updating model to reflect the current climate.

- Task Force has determined to
  - retain retrospective provisions of the model
  - require semi-annual use of DMF, full use once/updates after
  - retain an exemption for preneed funeral contracts
  - not add an exemption for active premium policies
  - clarify model application to annuities and retained assets
  - add procedures for “fuzzy logic” & allow for additional NAIC criteria

- Task Force will
  - review ACLI/NAUPA-NAST definitions of annuity/retained asset, etc.
  - review NE/WI Ins. Dept. language re “commissioner discretion”
  - Review “guiding principles re constitutionality”

- An NAIC Life Insurance & Annuities (A) Committee 2015 charge to develop a new NAIC model law to address the issue of unclaimed death benefits just was adopted on October 28.
Principle-Based Reserving (PBR)

NCOIL has been:

- discussing PBR pros/cons with key regulators, actuaries, and others for several years
- looking at whether PBR flexibility might let some insurers hold too little money in reserve—or whether it’s just a matter of “right-sizing” for each company
- looking at role of captives... Are life insurers using to reduce how much the insurers must have in reserve—while still carrying the same amount of risk?

NCOIL believes that balanced discussion is vital and is working to educate state legislators, who are asked to enact PBR in states.
Principle-Based Reserving (PBR)

What is Required

- NAIC Standard Valuation Law: 42 states—representing 75 percent of total premium volume in U.S.—must pass PBR for it to become effective.

- As of June 2014,
  - 17 states—or 23.8 percent of premium volume—had passed PBR or had bills on the governor’s desk
  - 13 other states said had plans to introduce PBR in their next sessions

- If all 13 enacted it, then PBR would have passed in 30 states with 60 percent of premium.
Pension De-Risking

- NCOIL exploring how to protect retirees when pensions transfer to annuity providers regulated by states.

- In early 2014, we began looking at a draft model law requiring:
  - regulator okay for de-risking transactions
  - mandatory retiree disclosures
  - equal creditor protections
  - opt-out and lump-sum options
  - reinsurance/third-party guarantees
  - regulator okay for subsequent transfers

- The goal: Ensure that retirees with de-risked pensions are protected similar to the ERISA safeguards they had before de-risking.
Pension De-Risking: Where We Are Now

- The proposed model has been highly controversial.

- Concerns include:
  - possible ERISA preemption
  - how certain regulatory okays would play out
  - impacts of opt-outs and lump sums
  - what disclosures are appropriate/possible

- Interested parties in ongoing negotiations over possible compromise—now thinking that best practices may be better than a model.

- While we take fresh look at issue, Sens. Ron Wyden (OR) and Tom Harkin (IA) on Oct. 22 wrote Treasury & Labor Depts., CFPB, PBGC urging “clear and specific” federal pension de-risking rules—pointing to importance of issue at NCOIL.
Flood Insurance

- All states hit by floods—so accessible, affordable, financially sound coverage is vital around U.S.

- NCOIL believes
  - flood risk too much for private market, limited federal role is okay (like terrorism)
  - dealing with flood/natural disaster risk needs to be multi-pronged: mitigation needed (NCOIL 2007 Model State Uniform Building Code, 2007 Resolution Regarding State Land Use Policy), private market whenever possible, government involvement as needed.

- Regarding NFIP, NCOIL:
  - works with FEMA—including 2002 Legislators’ Guide to Flood Insurance—to educate states and evaluate reforms
  - passed November 2013 resolution supporting temporary delay of some Biggert-Waters Act rate hikes—so FEMA could study impacts
  - passed July 2014 resolution supporting HR 3989 (natural disaster savings accounts) and other long-term ways to confront risk
Terrorism Insurance Program

- **NCOIL believes there could be serious economic harm if Congress doesn’t reauthorize TRIA before Dec. 31 expiration.**

- We urged Congress to pass a terrorism backstop in 2002 and called for reauthorization several times since.

- Without a backstop:
  - terrorism coverage could be unavailable
  - commercial, real estate, and other business could suffer
  - workers’ comp could have big problem—since it must cover all work-related injuries, no matter the cause

- It’s true... NCOIL opposes federal intrusion into insurance.

- But like floods, terrorism risk is a unique, and a limited federal role is appropriate.
International Initiatives Impact the States

- As guardians of state insurance law, we know that international dialogues can affect the laws we make back home.

- NCOIL believes global initiatives can threaten tried-and-true U.S. system.

- Global insurance capital standards developed by the IAIS could conflict with U.S. accounting rules designed to protect policyholders.

- ComFrame—an IAIS/Financial Stability Board (FSB) broad global supervisory system creates prescriptive, bank-centric rules for internationally active insurance groups.

- Solvency II—EU Commission is deciding if U.S./non-EU countries regulation is equivalent. Negative consequences if deemed non-equivalent.
International

What NCOIL is Doing

- NCOIL passed a resolution in late 2013 affirming state regulation and a letter to Congress/Executive branch urging same.

- NCOIL formed a three-year International Issues Task Force
  - with Capital Standards, Coordination & Transparency, and Trade Agreement Working Groups
  - State Officials Working Group & Advisory Council of interested parties

- Task Force focus on bank-centric regulation, group solvency, international capital standards, trade negotiations, reinsurance collateral, captives, etc.

- In July 2014 resolutions sent to federal, international agencies & officials
  - warned against a one-size-fits-all global capital standard
  - laid out guiding principles for state/federal/national cooperation
  - called for a expanded/continuous legislator role in trade negotiations

- In September and October 2014 sent comments to IAIS/letters to Congress supporting H. Res. 735/S. Res. 561 regarding openness and interested party input in IAIS initiatives and process.
State Officials Working Together

- **NCOIL is the voice of state insurance legislators in Washington and internationally.**

- NCOIL advocates for successful state oversight by letter, resolution, and model legislation.

- NCOIL works with other state officials, NCSL, CSG, NAIC, NAUPA, NAST, NAAG, NASAA, toward efficiency, modernization and uniformity, when necessary.

- NCOIL works with industry, consumer reps, and others to achieve a balanced approach & protect state citizens and promote healthy businesses in the states.

- NCOIL thanks the Academy of Actuaries for its input at NCOIL meetings and beyond on issues of vital importance to the states.
The Academy provides input to NCOIL on a wide variety of issues in all practice areas:

- ACA implementation
- National Flood Insurance Program
- Terrorism risk insurance
- Principle-based reserving
- Pension de-risking
- Longevity risk/lifetime income
- International

The Academy provides input through:

- In-program testimony
- Comment letters
- Informal discussions
THANK YOU!

NCOIL . . . developing sound public policy since 1969