

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
NCOIL-NAIC DIALOGUE COMMITTEE
SANTA FE, NEW MEXICO
NOVEMBER 17, 2011
MINUTES

The National Conference of Insurance Legislators (NCOIL)-National Association of Insurance Commissioners (NAIC) Dialogue Committee convened at the Eldorado Hotel & Spa in Santa Fe, New Mexico, on Thursday, November 17, 2011, at 4:00 p.m.

Rep. George Keiser of North Dakota, acting chair of the Committee, presided.

Other members of the Committee present were:

Rep. Kurt Olson, AK	Sen. James Seward, NY
Rep. Greg Wren, AL	Rep. Charles Curtiss, TN
Sen. Vi Simpson, IN	Rep. Herb Russell, VT
Rep. Robert Damron, KY	Sen. Mike Hall, WV
Sen. Carroll Leavell, NM	

Other legislators present were:

Rep. Barry Hyde, AR	Rep. Joe Hoppe, MN
Sen. Jason Rapert, AR	Sen. Ralph Hise, NC
Sen. Ruth Teichman, KS	Sen. David O'Connell, ND
Rep. Ron Crimm, KY	Rep. Don Flanders, NH
Rep. Jeff Greer, KY	Rep. Glen Mulready, OK
Rep. Sharon Treat, ME	Rep. William Botzow, VT

Also in attendance were:

Commissioner John Doak, OK
Superintendent John Franchini, NM
Commissioner Eleanor Kitzman, TX
Amanda Weaver, NAIC

Susan Nolan, Nolan Associates, NCOIL Executive Director
Candace Thorson, Nolan Associates, NCOIL Deputy Executive Director
Mike Humphreys, Nolan Associates, NCOIL Director of State-Federal Relations
Jordan Estey, Nolan Associates, NCOIL Director of Legislative Affairs & Education

MINUTES

After a motion made and seconded, the Committee voted unanimously to approve the minutes of its July 14, 2011, meeting in Newport, Rhode Island.

MARKET CONDUCT EXAMS

Rep. Keiser said that insurance industry representatives had for years been frustrated by state market conduct exam processes. He said that the American Council of Life Insurers (ACLI), American Insurance Association (AIA), National Association of Mutual Insurance Companies (NAMIC), and Property Casualty Insurers Association of America (PCI) had submitted information to NCOIL on exam costs and frequency in advance of the NCOIL Summer Meeting.

Ms. Weaver reported that the NAIC Market Regulation and Consumer Affairs (D) Committee had not yet reviewed the industry letters. She said that D Committee Chair Commissioner Sharon Clark

(KY) planned to examine market conduct issues in 2012, beginning with a survey that she would distribute in December 2011.

Rep. Keiser highlighted ACLI survey data showing that companies were subject to an average of 101 market conduct actions since January 2010. He said that legislators and regulators had worked together successfully on speed-to-market and producer licensing reform and suggested that they next address market conduct exam modernization.

Commissioner Doak, speaking on his own behalf, agreed that state officials should address exam costs and said that, in his experience, the multi-state exam process at the NAIC worked well. In response, Rep. Keiser urged regulators to review an NCOIL *Market Conduct Surveillance Model Law* that he said addressed when to conduct general exams, protected state authority to conduct targeted exams, and sought to control exam costs.

Commissioner Kitzman said that Texas had enacted the NCOIL model. She suggested that states had not been as successful on market conduct reform as they had been on financial accreditation or on speed-to-market because there was more variation between state consumer protection laws than between state financial standards. She said that neither consumers nor industry representatives were best served by the existing system.

Superintendent Franchini cautioned that the industry survey results could reflect both exam and non-exam market conduct actions. He said that non-exam actions could include a regulator's call to follow up on a consumer complaint, among other things.

SURPLUS LINES REFORM

Rep. Keiser said that a *Surplus Lines Insurance Multi-State Compliance Compact* (SLIMPACT) and a *Nonadmitted Insurance Multistate Agreement* (NIMA) were operational and asked for regulator feedback. Commissioner Doak said that Oklahoma had not joined SLIMPACT or NIMA and was taking a wait-and-see approach. Commissioner Kitzman said that Texas had not joined either option and commented that it would be the state Comptroller's decision to make. She said that the Comptroller had concerns with NIMA, specifically with the impact on Texas coastal wind pool assessments, the complexity of the NIMA allocation formula, and the requirement that brokers collect information that they currently do not. Superintendent Franchini said that New Mexico had joined SLIMPACT and, among other things, that he supported the effort.

Sen. Leavell then thanked Superintendent Franchini for his assistance as SLIMPACT advanced through the New Mexico legislature in 2011.

Rep. Damron said that he did not understand regulators' opposition to SLIMPACT because regulators comprised the decision-making SLIMPACT Commission. He said that industry representatives strongly opposed NIMA and had raised concerns regarding its legality and constitutionality. He said that it appeared that the NAIC opposed SLIMPACT, in part because state legislative sponsors of SLIMPACT legislation had reported that they had been discouraged by their state regulators from moving forward.

Rep. Keiser agreed with Rep. Damron that regulators were opposing SLIMPACT in the states. Rep. Keiser said certain SLIMPACT-Commission regulators had said they felt "caught between a rock and a hard place" because their regulator colleagues supported NIMA.

Ms. Weaver responded that the NAIC had not taken a position on NIMA or SLIMPACT. She said that NAIC staff had been asked by an NAIC Surplus Lines Task Force to develop NIMA but did not staff either NIMA or SLIMPACT.

After further discussion, Rep. Keiser said that he hoped the states could collectively find a solution on surplus lines reform. He cautioned that if the states did not modernize taxation/regulation, Congress could intervene again in surplus lines insurance.

INTERNATIONAL REGULATORY DEVELOPMENTS

Commissioner Kitzman said that regulators believe the U.S. regulatory system is strong and that regulators are not willing to sacrifice consumer protections in order to achieve common international goals and benchmarks. Commissioner Doak overviewed the Oklahoma Insurance Department's international outreach and emphasized the importance of keeping international regulatory developments in perspective given that many U.S. states are among the 25 largest insurance markets in the world.

Rep. Keiser suggested that legislators and regulators should ensure that they protect U.S. insurance markets before making any concessions on international regulatory standards.

FEDERAL INSURANCE OFFICE

Sen. Leavell said that an op-ed by Commissioner Doak in the *Washington Times* summarized Sen. Leavell's concerns with the Federal Insurance Office (FIO), and he thanked Commissioner Doak for writing the article. Commissioner Doak, speaking on his own behalf, said he felt strongly that the FIO represented a federal overreach into state rights and ability to regulate insurance. Rep. Crimm agreed and said that the states do an excellent job regulating insurance.

Rep. Keiser said that he had interpreted FIO Director Michael McRaith's comments at a recent NAIC meeting to suggest that the Director anticipated dual regulation in the future. Commissioner Doak concurred and asserted that dual regulation would impose massive costs on consumers. He said that Oklahoma insurance consumers wanted and expected someone at the state level to address consumer problems.

CONTINGENT ANNUITIES

Ms. Weaver reported that an NAIC Life Insurance and Annuities (A) Committee had started to examine contingent annuity issues. She said the Committee had created a working group that would consider, among other things, whether the product is an annuity or a financial guaranty, whether there is a need for the product, whether the product presents any risk, and whether there are any associated reserving, capital, or consumer issues.

REINSURANCE COLLATERAL

Commissioner Kitzman reported that after several years of work, the NAIC had amended its *Credit for Reinsurance Model Law and Regulation*. She said that the amendments offered a matrix system that could help a state revise its collateral requirements. She said the amendments also eliminated the need for every state to evaluate reinsurers but preserved the states' ability to do so if they wished. She noted that under the Dodd-Frank Act, the domiciliary state of a ceding company had exclusive authority to determine whether credit for reinsurance was appropriate.

Rep. Damron said that certain industry representatives had opposed the NAIC amendments and that he was concerned that industry opposition could result in a hodge-podge of regulation across the states. He then asked if the amendments would be part of the NAIC accreditation process. Commissioner Kitzman explained that some states had already adopted similar reinsurance reforms.

She said that the NAIC would maintain a central list of reinsurers and would monitor the financial conditions of the companies.

Ms. Weaver confirmed that the model law and regulation were part of the NAIC accreditation requirements. She said that the NAIC Financial Regulation Standards and Accreditation (F) Committee would act under expedited procedures to make the revisions part of the accreditation requirement after one year instead of after three years. She said that it was important to note that any proposed changes to accreditation standards would not require a state to reduce its reinsurance collateral requirements. She said that under accreditation, it is only required that a state demonstrate that its laws and administrative practices result in solvency regulation that is similar in force and no less effective than the standard.

ADJOURNMENT

There being no further business, the meeting adjourned at 5:00 p.m.