

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
NCOIL-NAIC DIALOGUE COMMITTEE
BILOXI, MISSISSIPPI
FEBRUARY 24, 2012
MINUTES

The National Conference of Insurance Legislators (NCOIL)-National Association of Insurance Commissioners (NAIC) Dialogue Committee convened at the Beau Rivage Hotel & Casino in Biloxi, Mississippi, on Friday, February 24, 2011, at 4:15 p.m.

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

Other members of the Committee present were:

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| Rep. Kurt Olson, AK | Sen. William J. Larkin, Jr., NY |
| Rep. Greg Wren, AL | Sen. James Seward, NY |
| Rep. Barry Hyde, AR | Rep. Brian Kennedy, RI |
| Sen. Carroll Leavell, NM | Rep. Charles Curtiss, TN |

Other legislators present were:

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| Rep. Denise Garlick, MA | Sen. Kevin Bacon, OH |
| Rep. Jeffrey Guice, MS | Sen. Keith Faber, OH |
| Rep. Jim Kasper, ND | Rep. Marguerite Quinn, PA |
| Sen. David O'Connell, ND | Rep. Cindy Ryu, WA |

Also in attendance were:

Commissioner Mike Chaney, MS
Commissioner John Doak, OK
Commissioner Mike Consedine, PA
Commissioner Eleanor Kitzman, TX
Eric Nordman, 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

MINUTES

After a motion made and seconded, the Committee voted unanimously to approve the minutes of its November 17, 2011, meeting in Santa Fe, New Mexico.

UNCLAIMED LIFE INSURANCE BENEFITS

Commissioner Consedine, on behalf of the NAIC, reported that state comptroller and treasurer investigations into unclaimed life insurance benefits had focused on whether insurers had escheated monies to states in accordance with unclaimed property laws. He said that insurance regulators were conducting a number of market conduct exams regarding unclaimed benefits practices and that 30 states had approved a regulatory settlement agreement with Prudential Financial. He said that many more states were expected to approve the agreement and that regulators expected to reach similar settlements with several other companies. Among other things, he reported that the agreement included a carve-out for future laws/regulations that allowed a company to seek a modification of the settlement terms in response to any new state requirements.

Rep. Keiser questioned, among other things, whether regulator settlement agreements would lead to inconsistent requirements among companies. Commissioner Consedine said that the settlement criteria required of companies would be applied in a uniform way, but noted that there could be variations in how long companies have to implement the new requirements.

Rep. Curtiss announced that he had introduced an NCOIL *Model Unclaimed Life Insurance Benefits Act* in Tennessee. He expressed concern that when someone passed away, a family could be in immediate need of benefits and that receiving benefits months or years later could be too late. He said, among other things, that it did not make sense to require companies to compare policies for which they are receiving premium payments to a Social Security Death Master File (DMF).

FEDERAL INSURANCE OFFICE

Rep. Keiser asked whether NCOIL and the NAIC could work together to respond to a forthcoming Federal Insurance Office (FIO) report on U.S. insurance regulation. Commissioner Kitzman said that she thought legislators and regulators had to work together. Sen. Leavell said that he would like to see a small group of legislators and regulators—appointed by NCOIL and NAIC Executive Committees—collaborate and report back to their respective organizations. Rep. Keiser agreed and said that waiting for the NCOIL Summer Meeting in July would be too late to respond to the FIO. Regulators agreed to inform NAIC leaders of Sen. Leavell's request to form a joint working group.

Commissioner Chaney said, among other things, that FIO was established to be a monitor, not a regulator, and that its scope should not include regulation. He said the NAIC thinks that regulators need to maintain a dialogue with FIO to ensure that it does not overstep its bounds.

Commissioner Kitzman pointed out that the Dodd-Frank Act required FIO to report on “how to” not “whether” to improve insurance regulation and suggested that Congress would take any FIO recommendations seriously.

Rep. Wren expressed concern that FIO would seek to expand its authority.

Commissioner Doak said that he had contacted the Oklahoma Attorney General regarding the constitutionality of Dodd-Frank Act FIO provisions and that he was waiting for a determination.

Rep. Kennedy said that the March NAIC meeting provided an opportunity for legislators and regulators to further discuss a unified response to the FIO report.

MARKET CONDUCT/PRODUCER LICENSING

Rep. Keiser said Dodd-Frank passed, in part, because the states had not developed solutions to address certain regulatory inefficiencies. He cited market conduct exams and agent licensing as examples of such inefficiencies and asked how legislators and regulators could work together to advance reform.

Commissioner Kitzman said that it was at times difficult for the NAIC to forge compromise because states had strong feelings about their individual regulatory regimes. The NAIC, she said, was committed to finding a unified regulatory approach.

Rep. Keiser said that an NCOIL *Market Conduct Surveillance Model Law* authorized regulators to conduct targeted exams and offered parameters to contain exam costs, among other things. He urged regulators to review the model and welcomed discussion about any necessary changes.

Commissioner Kitzman noted that Texas had enacted the NCOIL model. Rep. Kennedy said that he had worked closely with his state's insurance superintendent to advance the model through the legislative process—including incorporating necessary revisions. He noted that Rhode Island had been the most recent state to enact the NCOIL model.

Mr. Nordman said that states had implemented many of the NCOIL model's provisions administratively. He said that the concept of domestic deference was an issue because state laws, particularly on property-casualty insurance matters, could be dramatically different from state to state. He also said that an NAIC Market Regulation and Consumer Affairs (D) Committee had recently surveyed regulators to assess state market regulations and that the NAIC was enhancing a Market Conduct Annual Statement (MCAS) process, among other things.

INTERNATIONAL REGULATORY DEVELOPMENTS

Commissioner Consedine reported on group supervision efforts and said that U.S. regulators evaluate individual entities in a group and then evaluate the group as a whole. He said that the opposite is true in the European Union (EU). He said that regulators in the U.S. and abroad did not think there was significant systemic risk in the insurance industry, but he noted that other financial entities within a financial holding company might be engaging in riskier activity. He explained a U.S. regulatory "windows and walls" approach that permitted regulators to review insurer contagion risk from other entities while preserving the ability of regulators to protect the assets of an individual entity.

Commissioner Consedine also discussed recent amendments to an NAIC *Model Holding Company Act* and regulation that would expand disclosure requirements, encourage state regulator participation in supervisory colleagues, and enhance corporate governance rules, among other things. He said that the changes were made to improve regulators' ability to obtain information about entities within a financial holding company group.

Commissioner Chaney said that NAIC holding company act amendments would enable regulators to regulate entities that might otherwise try to operate without necessary surplus and reserves. He said that the NAIC took solvency issues seriously and added that it was a regulator's job to protect policyholders and make sure companies are solvent.

Rep. Keiser shared his belief that Greece would default on its debt and asked if the NAIC had analyzed indirect risk exposure to U.S. insurers. The NAIC had analyzed potential exposures in Europe, Commissioner Chaney replied.

ADJOURNMENT

There being no further business, the meeting adjourned at 5:15 p.m.