

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
STATE-FEDERAL RELATIONS COMMITTEE
WASHINGTON, D.C.
MARCH 8, 2013
MINUTES

The National Conference of Insurance Legislators (NCOIL) State-Federal Relations Committee met at the Hyatt Regency on Capitol Hill in Washington, D.C., on Friday, March 8, 2013 at 3:15 p.m.

Rep. Brian Kennedy of Rhode Island, vice chair of the Committee, presided.

Other members of the Committee present were:

Rep. Greg Wren, AL	Sen. David O'Connell, ND
Sen. Travis Holdman, IN	Sen. James Seward, NY
Rep. Joseph Fischer, KY	Rep. Michael Stinziano, OH
Rep. George Keiser, ND	Rep. Bill Botzow, VT

Other legislators present were:

Rep. Kurt Olson, AK	Sen. Jim Marleau, MI
Rep. Bryon Short, DE	Rep. Margaret O'Brien, MI
Sen. William Haine, IL	Sen. Norman Sanderson, NC
Rep. Kevin Cotter, MI	Rep. Bob Hackett, OH

Also in attendance were:

Susan Nolan, Nolan Associates, NCOIL Executive Director
Ed Stephenson, Nolan Associates, NCOIL Director of Legislative Affairs—DC
Eric Ewing, Nolan Associates, NCOIL Director of Legislative Affairs

MINUTES

After a motion made and seconded, the Committee voted unanimously to approve the minutes of its November 15, 2012, meeting in Point Clear, Alabama.

NCOIL-NAIC MARKET REGULATION WORKING GROUP SURVEY

Rep. Keiser updated the Committee on the recent activities of the NCOIL-NAIC Market Regulation Working Group, of which he is a member. He said that the working group developed a questionnaire relative to market conduct, intending to distribute it to the insurance industry. He said that the working group has since decided not to proceed as the industry was not interested in participating. Rep. Keiser explained that the motivation behind the questionnaire was a desire to collect real data on market conduct. He expressed his disappointment in the response from the industry, but he said that the working group continues to move forward in its study of market regulation.

Commissioner Jim Donelon of Louisiana, President of the National Association of Insurance Commissioners (NAIC), said that he shared Rep. Keiser's disappointment. Commissioner Donelon expressed his belief that the majority of the insurance industry supports keeping regulation at the state level. He said that the working group presents a unique opportunity for the industry because it brings together the core of state regulation in the form of legislators and commissioners. He said that NAIC looks forward to continuing with the working group process at the upcoming NAIC meeting in Houston.

RESOLUTION ON THE PRUDENTIAL REGULATION OF INSURERS

Commissioner Donelon reported that the Federal Reserve, the Office of the Comptroller of the Currency (OCC), and the Federal Deposit Insurance Corporation (FDIC) have jointly published proposed rules that would revise capital requirements for thrift and bank holding companies, including those owned by insurers. He identified the most problematic areas of the proposal as the definition of separate accounts, the treatment of policy loans, and the treatment of risk-based capital. He expressed concern that the new rules appear to apply a bank-centric regulatory approach to the insurance industry. He said that an insurer's banking activities typically represent only a small portion of its overall business and assets.

Commissioner Donelon said that insurance products, assets, and liabilities are fundamentally different than those of the banking sector. He noted that the insurance industry was able to weather the 2008 financial crisis under existing regulations. He said that capital is only one element of the supervision of financial institutions and that it should not be viewed in a vacuum. He commented that overlaying a bank-centric, capital-focused approach on the insurance sector is not likely to produce better regulation of insurer-owned holding companies. He suggested that treating insurers like banks could exacerbate the next financial crisis.

Sen. Holdman, who sponsored the resolution, described the proposal as an attempt to hold the Federal Reserve within the confines of its mission by asking regulators to align regulations with the language of the Dodd-Frank Act.

Upon a motion by Sen. Holdman, the Committee unanimously agreed to waive the bylaws-required 30-day deadline and allow consideration of proposed amendments to the resolution.

Julie Spezio of the American Council of Life Insurers (ACLI) said that although Dodd-Frank does not explicitly provide for regulation of insurance companies, the new rules proposed by the federal banking agencies could affect insurers. She said that for insurers that engage in banking, the most significant area of impact would be at the holding company level. She said that if an insurer is engaged in banking activities then the Federal Reserve is mandated to become the prudential regulator of the insurer-owned holding company on a consolidated basis. She said that the Federal Reserve can also regulate insurers deemed systemically significant.

Ms. Spezio commented that the immediate concern for insurers is that the federal agencies' proposed rules are primarily bank-centric. She said that the proposed rules apply risk-weighting standards to assets held by insurers, which are already subject to risk-based capital standards at the state level.

The Committee then, after a motion by Sen. Holdman, unanimously adopted the resolution as amended.

MULTISTATE TAX COMMISSION PROJECT

Rep. Kennedy reported that the Multistate Tax Commission (MTC) has proposed a model that would impose state income tax on partnerships and LLCs-or "pass-through entities"-of which an insurer, or another entity not subject to income taxes, is the majority owner. Rep. Kennedy said that in November he attended a meeting of the National Conference of State Legislatures (NCSL) Task Force on State and Local Taxation. He reported that the task force made a decision to oppose the MTC model.

Kate Kiernan of ACLI stated that insurers are already generating more tax revenue under the premium taxation model than other corporate entities are generating under the income

model. She reported that MTC recently voted to add two amendments to the proposal. She said that the first amendment adds an exception for transactions in which a pass-through entity performs an “integral component” of the insurance business. She said that the second amendment adds an exception for income derived from real estate transactions. Ms. Kiernan stated that ACLI continues to oppose the model. She said that ACLI does not believe that a revenue department is in a position to properly define an “integral component” of the insurance business. She reported that on March 6 the MTC Uniformity Committee voted to readopt the model and recommend it to the MTC Executive Committee.

PRODUCER LICENSING MODERNIZATION/NARAB II

Commissioner Julie McPeak of Tennessee said that the National Association of Registered Agents and Brokers (NARAB) federal reform legislation would provide eligible insurance producers access to every state on a non-resident basis. She said that the bill establishes a 13-member governing board, consisting of eight state insurance commissioners and five insurance industry representatives. She commented that the legislation preserves the rights of state regulators pertaining to licensing, supervision, and enforcement of non-resident producers. Commissioner McPeak added that NARAB II leaves intact a state's full range of authorities for resident producers as well. She said the legislation also includes important disclosures to states, addresses business entity licensing, and protects state revenues.

Commissioner McPeak reported that the House of Representatives will soon introduce a version of NARAB II with language identical to the Senate version. She stated that the House has passed earlier iterations of NARAB II on two prior occasions.

Commissioner McPeak said that NAIC is reviewing its state examination procedures to identify existing inconsistencies among states. She said that uniformity of examinations across states is important in order to ensure that qualified candidates can obtain licenses under NARAB. She added that difficulty of examination should also be consistent from state to state because a licensed resident producer is not required to take a new examination when applying for a non-resident license. She said that the NAIC Producer Licensing Task Force is developing a national content outline for insurance examinations.

IIPRC DEVELOPMENTS

Karen Schutter, Executive Director of the Interstate Insurance Product Regulation Commission (IIPRC), reported that:

- 40 states, plus Puerto Rico, have now joined the compact. She noted that member states account for 70 percent of all premium volume.
- Montana, Florida, New York and Connecticut introduced compact legislation in 2013.
- IIPRC recently met its budgeted revenue for the first time as a result of increased product filings.
- IIPRC has moved group term life standards into the uniform development phase and the Commission will soon consider adoption.

Ms. Schutter said that the next in-person meeting of the IIPRC will be held on April 8, 2013.

ADJOURNMENT

There being no other business, the Committee adjourned at 4:15 p.m.