

FOR IMMEDIATE RELEASE

CONTACT:

Susan Nolan
Candace Thorson
NCOIL National Office
518-687-0178

NCOIL PLANS NEW APPROACH TO CERTIFICATES OF INSURANCE MODEL, RESPONSE TO LENDER CONCERNS

Troy, New York, March 1, 2012—On February 26, lawmakers at the NCOIL Spring Meeting in Biloxi, Mississippi, voted unanimously to explore a new statutory approach to address how policyholders, such as contractors and real estate developers, prove they have insurance to third parties like potential employers and lenders. The Property-Casualty Insurance Committee will meet via conference call over the next several months to draft a proposal for Summer Meeting review that could work in concert with an already-introduced *Certificates of Insurance Model Act* and could focus on the challenges that lenders face when verifying coverage. The decision, which responds to very vocal concerns expressed by property-casualty insurance and lending industry representatives, aims to ensure that the original purpose of the existing model—to stem fraud and misuse—remains intact.

“After nearly a year of debate and submission of dozens of amendments,” said Committee Chair Rep. Steve Riggs (KY), “it’s pretty clear that we need a new way to clarify what certificates are and what they aren’t. Rather than exempt lenders from the model, which could create an unintended loophole and expose agents to greater liability, perhaps we should respond to the lenders separately. They have valid and unique concerns—it’s just a matter of figuring out how to answer them.”

In addition, Rep. Riggs recommended that “If the lenders have complaints about not getting policy documentation in a timely manner they should also make a complaint with the respective state’s Department of Insurance. Each state has procedure in place to deal with complaints of this nature.”

The Committee, in conjunction with its effort to develop a lender-based proposal, will consider whether to strike an “information only” disclosure requirement from the draft *Certificates of Insurance Model Act*—a provision that has spurred some of the most intense NCOIL debate. Certain interested parties have called the suggested deletion a compromise between those for and against “info only” status.

The p-c industry asserts that certificates are only courtesy documents that do not substitute for a policy and that changing a certificate’s status to something more than informational would expose agents to greater liability. Lenders, who request certificates prior to closing on a loan or at renewal, argue that the forms must have more weight—particularly since insurance binders may expire and commercial policies may not arrive for months. If a borrower ultimately has no coverage, the lenders say, they must pay when a loss occurs.

Some legislators and interested parties have suggested using New York State insurance binder law as basis for a proposal to address lender concerns. In New York, binders do not expire and policies renew automatically unless an insurer gives notice of cancellation or policy changes.

As introduced, the draft *Certificates of Insurance Model Act* would require insurance department approval of all certificate forms, mandate “info only” disclosure, and prohibit altering a certificate or using false or misleading data. The model, sponsored for discussion by Rep. George Keiser (ND), would ban reference to third-party contracts and stress that a certificate confers no rights beyond what the policy says.

Proposed amendments would exempt commercial lenders, indemnify producers from civil liability and, among other things, require a lender to accept a binder as evidence of coverage.

The 2012 Spring Meeting took place from February 24 through 26. The Summer Meeting is scheduled from July 12 through 15 in Burlington, Vermont.

NCOIL is an organization of state legislators whose main area of public policy interest is insurance legislation and regulation. Most legislators active in NCOIL either chair or are members of the committees responsible for insurance legislation in their respective state houses across the country. More information is available at www.ncoil.org.

For further details, please contact the NCOIL National Office at 518-687-0178 or by e-mail at cthorsen@ncoil.org.

#