

May 14, 2010

The Honorable Harry Reid  
The Honorable Christopher Dodd  
The Honorable Richard Shelby  
United States Senate  
Washington, DC, 20510

Dear Majority Leader Reid and Senators Dodd and Shelby:

On behalf of the National Conference of Insurance Legislators (NCOIL), I write to oppose efforts to repeal the federal antitrust exemption for health insurers as an amendment to S. 3217, the *Restoring American Financial Stability Act of 2010*. NCOIL legislators again reaffirm our unwavering support for McCarran-Ferguson's 1945 limited antitrust exemption, which in large part has contributed to the growth and health of our still-thriving insurance marketplace. We strongly caution against repeal.

As we stated in our January 14, 2010, letter to you and House Speaker Pelosi, rolling back antitrust exemptions for health insurers would ignore already-existing state antitrust protections and reduce competition while increasing costs.

NCOIL would like to correct a growing misinterpretation of the McCarran-Ferguson exemption. It is not a loophole through which insurers can avoid prosecution for violations such as boycotts, intimidation, or coercion. It does not limit the abilities of state attorneys general to prosecute crimes under existing state antitrust laws. States historically have enforced their antitrust statutes to combat broker bid-rigging and other crimes, and their efforts have been well-recognized.

Equally if not more important, repealing the limited antitrust exemption would ultimately drive smaller insurers—who depend upon sharing of loss history and other information—from the market. This would discourage competition, as the exemption ensures that smaller and more regional insurers can compete with large insurers that are less dependent on industry-wide data.

Repealing the exemption would raise insurance costs, rather than lower them. If smaller insurers are driven from the market—particularly in communities with already limited availability of coverage—and competition is stifled, insurance costs for consumers would undoubtedly rise.

NCOIL advises—as you amend your financial reform measure—that you not get side-tracked by a proposal that would cause more harm than good. We urge you to recognize the critical need for McCarran-Ferguson—a need that is acknowledged by NCOIL, as well as our state partners at the National Association of Insurance Commissioners and the National Conference of State Legislatures.

Please feel free to contact the NCOIL National Office at 518-687-0178 should you have any questions.

Sincerely,



Rep. Robert Damron (KY)  
NCOIL President

cc: U.S. Senators  
NCOIL Legislators

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