

Resolution Favoring Continued State-Based Insurance Consumer Protection

Adopted by the NCOIL State-Federal Relations Committee on July 10, 2009, and Executive Committee on July 12, 2009.

Sponsored by Rep. Greg Wren (AL)

WHEREAS, the states have sole regulatory authority for the regulation of the business of insurance as provided under the *McCarran-Ferguson Act*, and affirmed most recently by the *Gramm-Leach-Bliley Act*; and

WHEREAS, state insurance regulation has been successful and effective for over 150 years, continuously adapting to address an ever-changing marketplace; and

WHEREAS, the National Conference of Insurance of Insurance Legislators (NCOIL) supports the continued state regulation of the business of insurance, and opposes proposals to create a federal insurance regulator or an optional federal charter (OFC); and

WHEREAS, state unfair trade practice and other laws, as well as guaranty funds, provide protections for insurance consumers, individually and collectively; and

WHEREAS, state taxpayer-supported insurance departments currently provide services to aid and educate consumers on insurance; and

WHEREAS, the National Association of Insurance Commissioners (NAIC) maintains a Consumer Information Source (CIS) for consumers to use before purchasing insurance, providing access to key information about insurance companies, including: closed insurance complaints, licensing information, and financial data, as well as a means to file written complaints with the relevant state insurance department, and similar capabilities exist on many individual state insurance department web sites; and

WHEREAS, state insurance commissioners and department personnel are more familiar with their own state laws, judicial rulings, and local market issues; and

WHEREAS, state insurance departments conduct market conduct exams far more frequently than their federal banking counterparts; and

WHEREAS, state insurance commissioners are either elected or directly accountable to an elected Governor and Legislature, and are thus generally more responsive than a larger federal bureaucracy; and

WHEREAS, there is no need for an extra federal taxpayer-supported bureaucratic layer of redundant regulation; and

WHEREAS, the *Financial Product Safety Commission Act of 2009* was introduced this spring as companion legislation—S. 566 in the U.S. Senate by Senators Richard Durbin (D-IL), Edward Kennedy (D-MA), and Charles Schumer (D-NY), and as H.R. 1705 in the U.S. House of Representatives by Congressmen William Delahunt (D-MA) and Brad Miller (D-NC); and

WHEREAS, House Financial Services Committee Chairman Barney Frank (D-MA) introduced H.R. 3126, the *Consumer Financial Protection Agency Act*, a recommendation by President Barack Obama, on July 8; and

WHEREAS, S. 566/H.R. 1705 and H.R. 3126 would establish a federal Financial Product Safety Commission and a Consumer Financial Protection Agency, respectively, with authority over consumer financial products; and

WHEREAS, while intending to address predatory consumer financial products, S. 566 and H.R. 1705 include a definition of “Consumer Financial Product,” and other provisions, that could be interpreted to extend the scope of the Financial Product Safety Commission over insurance products; and

WHEREAS, while H.R. 1705 contains a provision that reaffirms the *McCarran-Ferguson Act*, and, thus, state regulation over the business of insurance, S. 566 omits such language; and

WHEREAS, H.R. 3126 exempts the business of insurance—except for credit, mortgage, and title insurance—from its definition of “Financial Activity;” and

THEREFORE, BE IT RESOLVED that NCOIL believes that the protection of insurance consumers should continue to be based exclusively at the state level; and

BE IT FURTHER RESOLVED that any Financial Product Safety Commission, Consumer Financial Protection Agency, or similar new or existing federal agency should not have direct or indirect jurisdiction over insurance products—including credit, mortgage, and title insurance—and/or insurance-related matters; and

BE IT FURTHER RESOLVED that NCOIL believes that S. 566/H.R. 1705 and H.R. 3126 should be amended to explicitly exclude all insurance products and insurance-related matters from the scopes of the Financial Product Safety Commission and the Consumer Financial Protection Agency, respectively; and

BE IT FINALLY RESOLVED that a copy of this resolution shall be sent to state legislative leaders, Congressional sponsors of S. 566 and H.R. 1705 and H.R. 3126, and Members of the U.S. House Committee on Financial Services and the U.S. Senate Committee on Banking, Housing, and Urban Affairs.