

August 1, 2008

The Honorable Christopher Dodd
Chair, Senate Committee on Banking, Housing, and Urban Affairs
534 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Dodd:

As leaders of the National Conference of Insurance Legislators (NCOIL) we are writing to you—as a fellow legislator—to outline our concerns regarding H.R. 5840, the *Insurance Information Act of 2008*, and to request due process in your consideration of the bill. We also ask that you do not bundle H.R. 5840 with other insurance-related bills, including a bill to address the surplus lines market. The bill continues to raise concerns with governors, attorneys general, state insurance commissioners and other officials, who work together in the states to ensure that citizens are protected and the insurance marketplace remains robust and healthy.

H.R. 5840 is a new proposal in the Senate—though introduced and advanced in the United States House of Representatives in 2008—and has not been vetted in the Senate or debated by any previous Congress. The measure was reported out of the House Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises after a markup in which less than 15 of the almost 50-member Subcommittee voted. Even more troubling, the House Committee on Financial Services has yet to debate H.R. 5840. NCOIL would urge you not to pursue an even faster track in the Senate on such a controversial piece of legislation.

NCOIL, as well as the National Conference of State Legislatures (NCSL), is strongly opposed to the preemptive nature of H.R. 5840, which would create an Office of Insurance Information (OII) at the U.S. Department of the Treasury and authorize the OII to preempt state insurance laws and regulations.

H.R. 5840 may seem innocuous on first reading. Some might ask, “What could be wrong with collecting data and serving as an international arbitrator?” But H.R. 5840—painted in such broad strokes—does not specifically detail the powers of the proposed OII and leaves open many questions. We as fellow lawmakers know that when it comes to legislation, the “devil” is always in the “details.”

As written, the authority of the OII could be interpreted to reach well beyond its original intent of advice and information gathering. The bill is vague regarding the scope of this new office, as well as what comprises an “international agreement,” and it may pave the way for larger and perhaps less amenable preemptive power.

H.R. 5840 would

- preempt your state’s laws and consumer protections if the OII determined that they were “inconsistent” with new federal international “agreements”
- lay the foundation for an inappropriate federal scheme, such as an Office of National Insurance (ONI) or an optional federal charter (OFC)

We believe that the OII would establish a framework that a future Congress could build upon to create and empower a federal insurance regulator, contrary to the original legislative intent. We also

respectfully note that co-sponsors of OFC legislation H.R. 3200, the *National Insurance Act*, have publicly stated that H.R. 5840 would be a step toward that end.

OFC or ONI proposals would sacrifice important state protections in favor of costly and untested federal bureaucracies. They have the potential to lead to a morass of state and federal directives, jeopardize state premium tax revenue, compromise guaranty funds and other market safety nets, negatively impact smaller regional insurance companies, and ignore all that states have achieved to streamline their insurance systems.

NCOIL strongly supports the tenets of a state-based system of insurance regulation, which Congress has acknowledged for so many years. On the ground in the states, legislators and regulators work side-by-side to improve insurance regulation and to ensure that companies and consumers benefit from the competitive marketplace we have fostered.

Success of state-based insurance modernization efforts—such as speed-to-market for life insurance products provided by the Interstate Insurance Product Regulation Compact—evidences this. The Compact comprises 33 member jurisdictions, including Ohio, Pennsylvania, Texas, and Virginia, among others, within the short span of two years since it became operational.

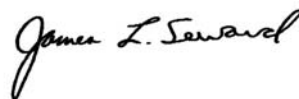
NCOIL believes that H.R. 5840 will undermine consumer protections embedded in the state-based system and may prove detrimental to what is now a thriving insurance marketplace. We recommend that you do not attempt to fast-track the bill—which has neither been introduced nor debated in the Senate. We further advise that to combine the bill with other legislation in this 110th Congress would further muddy the waters. This legislation deserves thorough exploration to shed light on its ultimate impact. If passed, it would irreparably alter the face of insurance regulation. We look forward to dialoging with members of the Senate and would appreciate an opportunity to offer testimony regarding these legislative proposals as they are considered.

Thank you for your time and consideration on this matter.

Sincerely,



Rep. Brian Patrick Kennedy (RI)
NCOIL President



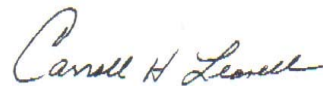
Sen. James Seward (NY)
NCOIL President-Elect



Rep. Robert Damron (KY)
NCOIL Vice President



Rep. George Keiser (ND)
NCOIL Secretary



Sen. Carroll Leavell (NM)
NCOIL Treasurer

cc: United States Senate
NCOIL Executive Committee