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**NCOIL EXTENDS CONSUMER LEGAL FUNDING DEBATE INTO 2014,
LEAVES DOOR OPEN FOR NEW PROPOSAL**

Troy, New York, November 27, 2013—Lawmakers at the National Conference of Insurance Legislators (NCOIL) Annual Meeting in Nashville agreed to continue debate on proposed regulation of third-party lending to consumers engaged in legal action—and to leave the door open for new model legislation in 2014. The decision to hone in on a possibly new approach builds on an almost two-year NCOIL look at the issue and reflects a willingness to reevaluate existing proposals.

According to Property-Casualty Insurance Committee Chair Rep. Matt Lehman (IN), who sponsored a draft *Model Consumer Lawsuit Lending Alignment Bill* that treats consumer legal funding as a loan:

I think we've come to the realization that the proposals before us, including my own, may not create the kind of regulation that will best protect consumers. The key issue is how to ensure that what consumer lawsuit lenders charge people is fair—and if subjecting the transactions to the same oversight as credit card companies may not be appropriate, and I no longer think that it may, we need to consider caps on what lenders can charge. Lender fees can be extremely high, making it all the more important that we get this right.

Sen. Neil Breslin (NY), NCOIL President-Elect and sponsor of a draft *Civil Justice Funding Model Act*, added:

I'm pleased to see that the Committee may be moving away from looking at whether lawsuit lending arrangements are loans and seems inclined to consider a more balanced approach that recognizes the unique nature of these transactions. I strongly believe that lawsuit lenders must be regulated, but it is misguided for us to treat consumer funding transactions like loans because lenders, unlike banks, have no guaranty that they'll ever see the money they give a consumer.

During the Committee's November 23 consideration of the issue, legislators discussed initiatives in Tennessee and Indiana to develop proposed legislation, which may influence a proposed NCOIL model in 2014. Rep. Lehman expressed interest in incorporating certain provisions in Sen. Breslin's draft—which establishes rules related to disclosure, conflicts of interest, lender registration, and other things—if possible.

A third model law, sponsored by NCOIL immediate past president Rep. Charles Curtiss (TN), contains similar disclosure and conflict-of-interest provisions as Sen. Breslin's proposed model, but differs regarding time frames for charging fees, among other items.

At the conclusion of the special meeting during which the P-C Committee explored the issue, legislators agreed to consider the possible new approach at the March 7 to 9 Spring Meeting in Savannah and plan to vote on a draft model at the July 10 to 13 Summer Meeting in Boston.

In general, consumer legal funding, also known as non-recourse funding, takes place when a lending company gives money to a plaintiff in return for receiving a portion of any settlement or award. The third-

party lender receives nothing—including the amount of the original transaction—if the plaintiff loses. Consumers often use the funds to pay daily expenses while a lawsuit works its way through the courts.

The Annual Meeting took place in Nashville, Tennessee, from November 21 to 24.

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.

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