

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
LIFE INSURANCE & FINANCIAL PLANNING COMMITTEE
BOSTON, MASSACHUSETTS
JULY 21, 2006
MINUTES

The National Conference of Insurance Legislators (NCOIL) Life Insurance & Financial Planning Committee met at the Boston Park Plaza Hotel and Towers in Boston, Massachusetts, on Friday, July 21, 2006, at 11:25 a.m.

Rep. Larry Taylor of Texas, chair of the Committee, presided.

Other members of the Committee present were:

Sen. Joseph Crisco, CT	Sen. Alan Sanborn, MI
Sen. Steven Geller, FL	Sen. Bob M. Dearing, MS
Rep. Pat Patterson, FL	Rep. George Keiser, ND
Sen. William R. Haine, IL	Sen. Carroll Leavell, NM
Rep. Michael Ripley, IN	Rep. Robert Godshall, PA
Rep. Ronald Crimm, KY	Rep. Virginia Milkey, VT
Rep. Dennis Horlander, KY	

Other legislators present were:

Rep. Richard Laird, AL	Rep. Daniel Foley, NM
Rep. Sandra Adams, FL	Rep. Brian P. Kennedy, RI
Rep. Franklin Sands, FL	Sen. Ann Cummings, VT
Rep. Priscilla Taylor, FL	Rep. Kathleen Keenan, VT
Sen. Dean Cameron, ID	Rep. Warren Kitzmiller, VT
Rep. Terry Parke, IL	Sen. Dan Kapanke, WI
Rep. Donald Flanders, NH	

Also in attendance were:

Susan Nolan, Nolan Associates, NCOIL Executive Director
Candace Thorson, NCOIL Deputy Executive Director
Mike Humphreys, NCOIL Director of Legislative Affairs & Education,
Life, Health, and Workers' Compensation Insurance Committees

MINUTES

The Committee voted unanimously to approve the minutes of its February 23, 2006, meeting in Weston, Florida.

REGULATORY ISSUES FOR ANNUITIES

North Dakota Insurance Commissioner Jim Poolman, Chairman of the National Association of Insurance Commissioners (NAIC) Life Insurance and Annuities (A) Committee, discussed a roundtable held by the National Association of Securities Dealers (NASD) in which state securities and insurance regulators met with representatives of the NASD and Securities and Exchange Commission (SEC) to talk about jurisdictional issues related to annuities and strategies to bridge gaps and protect consumers.

Commissioner Poolman said that fixed annuities were traditionally regulated by state insurance regulators while variable annuities were regulated by both insurance and securities regulators. He added that while the NASD considered fixed-index annuities (FIA), or equity-index annuities (EIA), a “jumpball,” insurance departments view them as insurance products subject to regulation by insurance commissioners.

Paul Kohls of Allianz Life Insurance Company described FIA and discussed their market share. He said that they offered consumers a guaranteed floor and were tied to the performance of an index, such as the S&P 500. He noted that there were \$27 billion in new FIA considerations in 2005, and told members that the product’s growth rate had been substantial while annuities as a whole had peaked.

Rep. Ripley asked why the NASD would become involved if the SEC had not determined that FIA are securities products. Commissioner Poolman said that, he believed, the NASD thought that since FIA were tied to an index that the products were securities. He said that insurance regulators disagreed because FIA had guaranteed floors.

SUITABILITY FOR ANNUITIES

John Gerni of the American Council of Life Insurers (ACLI) told members that the NAIC had amended a model regulation regarding the suitability of annuity sales at its Spring Meeting. He said that the model had previously applied suitability standards to the sale of annuities to individuals 65 and older, but noted that the amended model would expand the requirements to all annuity consumers.

Mr. Gerni described the status of suitability in the states. He said that seven states had adopted language substantially similar to the amended model, four states had legislation pending, and ten states had approved the original NAIC model.

Upon a motion made and seconded, the Committee voted unanimously to pursue development of a resolution in support of the NAIC amended suitability model regulation at the NCOIL Annual Meeting.

ISSUES RELATED TO VIATICAL SETTLEMENTS

Commissioner Poolman discussed how the issue of viatical settlements had evolved into the larger issue of life settlements. He said that the NAIC Life Insurance Committee held a hearing on May 3 to explore life settlement issues and how they relate to state insurable

interest laws. He noted that the Committee had received four industry proposals to amend the NAIC *Viatical Settlements Model Regulation*.

Commissioner Poolman described new stranger-owned life insurance (STOLI) transactions, in which investors encourage individuals to purchase policies. He said that the investors provide money up front for an individual to take out a policy and then cover the premium costs. He stated that after the expiration of a two-year incontestability period, the individual assigns the policy to the investors and receives a settlement, while the investors continue to pay the premium and later receive the death benefit.

Commissioner Poolman said that public policy questions include whether life insurance should be traded like a commodity and if insurable interest laws should be reevaluated. He cautioned members that there was a bill in Congress that would put a 100 percent excise tax on the buildup of a life insurance policy if the policy was settled within five (5) years.

Doug Head of the Life Insurance Settlement Association (LISA) suggested that Americans had begun to view their life insurance policies as personal assets. He said that issues to be addressed include premium financing of policies and insurable interest laws.

Mr. Head noted that a large percentage of the public has not taken advantage of settlements and said that when life insurance policies lapse, a sizeable share of the value goes to the issuing company. He referenced a study that found that a significant number of policies lapse within five years after purchase.

Mr. Gerni said that the ACLI does not oppose life settlements but does have a problem with contrived STOLI transactions, where policies are purchased with the intent to sell them in the secondary market.

LIFE INSURANCE AWARENESS MONTH

Bill Anderson of the National Association of Insurance and Financial Advisors (NAIFA) informed members that for three years NAIFA and the Life Insurance Foundation for Education had designated September as Life Insurance Awareness Month. He said that a resolution supporting the designation had been introduced in both Houses of Congress and supported by 30 states. He encouraged the Committee to adopt a resolution doing the same.

Upon a motion made and seconded, the Committee voted unanimously to adopt the *Resolution in Support of Recognizing September 2006 as Life Insurance Awareness Month*.

PRINCIPLES-BASED APPROACHES FOR LIFE INSURANCE RESERVING

Scott Cipinko representing clients of Lord, Bissell & Brook said that life insurance reserving currently took a formulaic approach and commented that a principles-based

approach would focus more on how policies actually worked. He suggested that uniformity between states could be difficult if states were proprietary with their rules.

Scott Harrison of the Affordable Life Insurance Alliance said that two goals of the organization were to develop a principles-based approach and to support effective solvency regulation. He said that formulaic approaches often result in redundant reserves that cause higher prices for consumers and can force companies to stop writing business.

Rep. Keiser commented that lower reserves reduce the cost of policies but can increase the potential for insolvency and can mean less earning power on reserves. He wondered where the cost savings would be. Mr. Harrison answered that principles-based reserving would not always mean lower reserves. He said it would not impact solvency.

After additional Committee discussion, members determined to further investigate the issues at the NCOIL Annual Meeting.

OTHER BUSINESS

REVIEW OF MODEL LAWS, AS PER BYLAWS

Mr. Humphreys said the *Insurance Compliance Self-Evaluative Privilege* model, adopted in 1998 and readopted in 2001 and 2004, would encourage insurance companies to conduct audits of their compliance programs and management systems, and protect the confidentiality of communication relating to such audits.

Mr. Humphreys said the *Secondary Addressee* model was adopted in 1996 and readopted in 2001 and 2004, and would protect individuals 64 and older from policy lapse by requiring insurers to contact a specified secondary addressee, if one has been designated, before expiring a policy.

Upon motions made and seconded, the Committee voted unanimously to readopt the *Insurance Compliance Self-Evaluative Privilege* and *Secondary Addressee* model acts.

The Committee then considered future NCOIL action regarding the *Life Settlements Model Act*, initially adopted in 2000. After discussion, the Committee voted unanimously to defer consideration of the model law until the Annual Meeting and to try to schedule a special session on life settlements at that time.

ADJOURNMENT

There being no further business, the meeting adjourned at 12:30 p.m.