

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
STATE-FEDERAL RELATIONS COMMITTEE
NEWPORT, RI
JULY 15, 2011
MINUTES

The National Conference of Insurance Legislators (NCOIL) State-Federal Relations Committee met at the Marriott Newport in Newport, RI, on Friday, July 15, 2011, at 8:45 a.m.

Sen. Keith Faber of Ohio, chair of the Committee, presided.

Other members of the Committee present were:

Rep. Greg Wren, AL	Rep. Don Flanders, NH
Rep. Barry Hyde, AR	Sen. Carroll Leavell, NM
Sen. Travis Holdman, IN	Sen. William J. Larkin, Jr., NY
Sen. Vi Simpson, IN	Sen. Kevin Bacon, OH
Sen. Ruth Teichman, KS	Rep. Michael Stinziano, OH
Rep. Robert Damron, KY	Rep. Brian Kennedy, RI
Rep. George Keiser, ND	Rep. Charles Curtiss, TN

Other legislators present were:

Rep. Ron Crimm, KY	Sen. David O'Connell, ND
Rep. Steve Riggs, KY	Sen. Neil Breslin, NY
Rep. Charles Kleckley, LA	Assem. Nancy Calhoun, NY
Sen. Gerald Long, LA	Rep. Armando Walle, TX
Sen. Dan Morrish, LA	Rep. Bill Botzow, VT
Rep. Wesley Richardson, ME	Rep. Herb Font-Russell, VT
Sen. Jerry Klein, ND	Sen. Maralyn Chase, WA

Also in attendance were:

Susan Nolan, NCOIL Executive Director
Candace Thorson, NCOIL Deputy Executive Director
Mike Humphreys, NCOIL Director of State-Federal Relations
Jordan Estey, NCOIL Director of Legislative Affairs & Education

MINUTES

After a motion made and seconded, the Committee voted unanimously to approve the minutes of its March 4, 2011, meeting in Washington, DC.

PRODUCER LICENSING/NARAB II

Commissioner Roger Sevigny (NH), on behalf of the NAIC, called the testing process for insurance producer licensing "inconsistent" from state to state and announced that the NAIC would convene a meeting with industry and company representatives to discuss how to address the issue on a national level. Regarding H.R. 1112, the *National Association of Registered Agents and Brokers Reform Act of 2011* (NARAB II), Commissioner Sevigny reported that while the NAIC had again been asked to support NARAB II, the organization had many new members and had not taken a position on the bill. He added that the NAIC expected to meet with members of Congress soon to discuss NARAB II.

Wes Bissett of the Independent Insurance Agents and Brokers of America (IIABA) said that H.R. 1112 was identical to the NARAB II bill that passed the U.S. House in the last Congress. He reported that more than 60 members had cosponsored the House bill and that Senate companion legislation was expected to be introduced. He said that insurance agents and the insurance industry supported NARAB II.

David Eppstein of the National Association of Professional Insurance Agents (PIA) expressed support for NARAB II and stressed that it would not authorize federal regulation. He said that PIA continued to work with the NAIC and the states to achieve reform. He cited enactment of a *Producer Licensing Model Act* and full use of electronic licensing services available through a National Insurance Producer Registry as means to address reciprocity.

Kevin McKechnie of the American Bankers Insurance Association (ABIA) said that state legislators would cede authority to NARAB under H.R. 1112. He said that after a comprehensive review, the ABIA supported the legislation and would ask the Senate for amendments to make NARAB an instrumentality of the federal government and to provide the Federal Insurance Office (FIO) certain preemptive powers regarding agent licensing.

INTERSTATE INSURANCE PRODUCT REGULATION COMMISSION

Commissioner Sevigny, chair of the Interstate Insurance Product Regulation Commission (IIPRC), reported, among other things, that:

- Alabama, Nevada, and Oregon had recently enacted legislation to join the Compact.
- The Compact would comprise 41 jurisdictions representing 70 percent of the nationwide premium volume for asset-based products.
- IIPRC representatives had communicated with California and New York insurance departments about Compact operations and standards, and membership benefits.
- 115 companies had registered with the IIPRC in 2011, up from 113 in 2010.
- The Compact Commission would consider amendments to its rulemaking rules during its August meeting in Philadelphia, Pennsylvania.

SURPLUS LINES INSURANCE REFORM

Steve Stephan of the National Association of Professional Surplus Lines Offices (NAPSLO) described an NAIC *Nonadmitted Insurance Multi-State Agreement (NIMA)* as too burdensome for surplus line brokers. He said that NIMA required 30 data elements and more than 20 allocation formulas and noted that the required data was not generated in the normal course of business. He added that casualty premiums were typically not allocated by brokers, as required by NIMA.

Mr. Stephan said that there is not sufficient data to allow exact determinations of how tax allocation mechanisms would impact state revenues. He stated that while a handful of states collect around two-thirds of the surplus lines premium tax, that tax was not necessarily on multi-state premiums. He displayed a chart indicating the number of Fortune 500 firms based in each state and said that the data provided a better indication of where taxes on multi-state premiums would be collected.

Mr. Stephan also suggested that additional states had not joined NIMA because it represented a potential tax increase. He provided a hypothetical example of a multi-state premium based in Illinois. The example showed that under NIMA, Illinois would charge \$3,600 in taxes instead of \$1,500 and would only keep \$600 of the tax, instead of the \$1,500 it would otherwise collect.

Dan Maher of the Excess Line Association of New York (ELANY) applauded legislators for passing the *Surplus Lines Insurance Multi-State Compliance Compact (SLIMPACT)* in nine states within five months. He said that ELANY believed that a widely adopted SLIMPACT would be the fairest method by which states could share premium taxes and implement other provisions of the federal *Nonadmitted and Reinsurance Reform Act (NRRA)*—which he said addressed uniformity, simplicity, and modernization.

Reps. Damron and Keiser then asked whether NIMA would do all that the NRRA required and for a summary of SLIMPACT and NIMA differences, respectively. Mr. Maher replied, among other things, that:

- NRRA sponsor former Congressman Dennis Moore (D-KS) had said that the NRRA is meant to address more than tax sharing.
- SLIMPACT goes further to create uniformity by authorizing states to establish nationwide foreign insurer eligibility standards and uniform disclosure requirements, among other things, while NIMA only addressed tax allocation.
- SLIMPACT has a clear, legal governance structure within a framework of state statutes, while NIMA was an agreement subject to change.
- The Council of State Governments (CSG) has indicated that NIMA is an unconstitutional delegation of legislative authority to an executive branch.

After further discussion, Rep. Damron cautioned that if the states do not act uniformly in adopting SLIMPACT, Congress may develop additional national standards for the states.

Mr. Maher also agreed with Mr. Stephan—in response to a question from Rep. Damron—that NIMA could result in a tax increase that would impact constituents. Responding to a related question from Rep. Kennedy, Mr. Maher said that he understood that NIMA would permit state catastrophe funds to tax either all or a portion of out-of-state premiums, thus raising the tax on an insured.

SLIMPACT COMMISSION

Rep. Keiser encouraged legislators and others to attend the first face-to-face meeting of the SLIMPACT Commission that afternoon. He said that the Commission would discuss draft bylaws, rules for rulemaking, and premium tax allocation formulas, among other things.

ADJOURNMENT

There being no further business, the meeting adjourned at 10:00 a.m.