

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
STATE-FEDERAL RELATIONS COMMITTEE
BURLINGTON, VT
JULY 12, 2012
MINUTES

The National Conference of Insurance Legislators (NCOIL) State-Federal Relations Committee met at the Hilton Burlington in Burlington, VT, on Friday, July 12, 2012, at 2:30 p.m.

Representative Susan Westrom of Kentucky, acting chair of the Committee, presided.

Other members of the Committee present were:

Rep. Barry Hyde, AR	Sen. William J. Larkin, Jr., NY
Sen. Travis Holdman, IN	Rep. Michael Stinziano, OH
Rep. Robert Damron, KY	Rep. Brian Kennedy, RI
Rep. George Keiser, ND	Rep. Charles Curtiss, TN
Rep. Don Flanders, NH	Rep. Bill Botzow, VT
Sen. Carroll Leavell, NM	Rep. Kathie Keenan, VT

Other legislators present were:

Rep. Steve Riggs, KY	Sen. Jim Marleau, MI
Rep. Tommy Thompson, KY	Sen. David O'Connell, ND

Also in attendance were:

Susan Nolan, NCOIL Executive Director
Candace Thorson, NCOIL Deputy Executive Director
Michael Keegan, NCOIL Director of Legislative Affairs DC
Mike Carroll, NCOIL Director of Legislative Affairs

MINUTES

After a motion made and seconded, the Committee voted unanimously to approve the minutes of its February 24, 2012, meeting in Biloxi, Mississippi.

SLIMPACT DEVELOPMENTS

Kentucky Insurance Commissioner Sharon Clark, Interim Chair of the SLIMPACT Commission, reported that the Commission is in limbo, waiting for the tenth state to join, and that progress in recruiting additional states to join had been slow. She also reported that a series of commission meetings had been held and that the Kentucky allocation model had been informally adopted by the SLIMPACT states and supported by the insurance industry. She said that Indiana, Kentucky and New Mexico had developed proposed reporting requirements and that preliminary administrative functions were being established in advance of the tenth state joining. According to Commissioner Clark, six states have withdrawn from the Nonadmitted Insurance Multistate Agreement (NIMA), leaving five states as members.

Rick Masters of the Council of State Governments (CSG) told the Committee that the partnership between NCOIL, CSG, and the National Conference of State Legislators (NCSL) in support of SLIMPACT had been successful. Though no states had adopted legislation in 2012, he said, there remained state interest in the SLIMPACT goals of uniformity in surplus lines regulation. Mr. Masters said that NIMA was not a compact and suffered as a result, as its recent member-state attrition suggested.

Mr. Masters said that NCOIL, CSG and NCSL had succeeded in creating an infrastructure that lends itself to uniformity within the surplus lines industry, irrespective of whether a tenth state joined the Compact. He said he believes that further state action had been slowed because of the two choices states have had between NIMA and SLIMPACT, as well as the fact that the marketplace, regulators, and consumers were confused by “compact fatigue.” He said that momentum also had appeared to slow because there was not the same sense of urgency about potential federal regulation as there had been in the immediate aftermath of the passage of the 2010 Dodd-Frank Act. He concluded by suggesting that the focus should no longer be on how to get to ten states in the Compact but rather to get 25 or 30 states that would represent a significant percentage of the marketplace.

Dan Maher of the Excess Line Association of New York (ELANY) thanked committee members for adopting SLIMPACT legislation in their states. He pointed out that SLIMPACT was designed to promote uniformity, simplicity and efficiencies in the marketplace and that it went far beyond simply tax allocation. While the regulatory environment had improved, he said, insurance brokers wanted more uniformity because it affected their bottom line. He said uniformity would do away with having to file one form in one state, having certain information on certain days, paying taxes on certain days, and what the disclosure language has to be on the policy.

Mr. Maher said that, at present, there were 50 sets of rules and that while SLIMPACT was established to create uniform standards, the NIMA/SLIMPACT debate seemed to have folded into one primarily about taxes. According to Mr. Maher, SLIMPACT legislation has stalled at the state level despite the fact that the vast majority of states are taxing at 100 percent of the home state level in part because there are three different approaches – SLIMPACT, NIMA, and the 100 percent tax allocation. He expressed the belief that the ground seems to be shifting and that the six states that have withdrawn from NIMA suggested a directional change. He concluded by suggesting that state compacts may be the only legitimate way states can create uniformity and respond to a federal push for greater regulation of the insurance industry.

MARKET CONDUCT

Commissioner Clark, as Chair of the NAIC Market Regulation and Consumer Affairs (D) Committee, reported that the NAIC continues to focus on ways to enhance coordination of market conduct examinations. She indicated that the NAIC had made several administrative changes to coincide with the NCOIL *Market Conduct Surveillance Model Law*. According to Commissioner Clark, the D Committee had created several working groups, including a Market Actions Working Group (MAWG). She said that MAWG and the other working groups have a diverse membership of the top market conduct regulators in the country to facilitate the efficient communication, collaboration, and coordination among states to address regulatory issues. Commissioner Clark said that the NAIC had also developed the Market Conduct Annual Statement (MCAS) to centralize data and allow states to conduct state, regional, and national analyses. She said that MCAS collects claims and underwriting data on the private passenger auto, homeowners, life, and annuity lines of business.

Commissioner Clark reported that the NAIC D Committee had performed a thorough survey of 46 states to examine critical issues necessary to improve to the market conduct exam process, such as qualifications of examiners, whether examiners are “in-house” or contract examiners, control of examination expenses, and the most efficient means of market conduct exams. She concluded by saying that this might take two to three years but that the D Committee remains committed to modernizing the process and has begun collaborating with other NAIC committees.

Deirdre Manna of the Property Casualty Insurers Association of America (PCI) said that concerns remaining related to the existing market conduct process, such as the level of training of examiners, the expense of exams with little or no consumer benefit, and the need for better coordination between the states. She acknowledged that previously there mostly had been anecdotal information about state market conduct exam concerns, as compared to the kind of data that the NAIC survey

has developed. Ms. Manna concluded by saying that there were still a number of issues that needed to be resolved, but that the industry was pleased with the D Committee progress in addition to efforts to address international market conduct issues.

Ray Farmer of the American Insurance Association (AIA) congratulated Commissioner Clark on the work of the D Committee and suggested that improvements had been made in the area of market regulation. He said, for example, that the number of states that follow the NAIC Market Conduct Handbook and publish their results based on those standards has increased. He reported that more states had moved away from comprehensive exams and were analyzing data from broader marketplace norms, and were identifying outliers for additional, targeted, regulatory activity.

However, Mr. Farmer said, improving the system was always a work in progress and more needed to be done. He said that the cost of exams continued to be a concern and that there needed to be a more consistent framework for overseeing and controlling costs. Since market conduct was meant to protect consumers, he added, regulatory resources should focus on the insurance activities that present the greatest potential harm to consumers. Mr. Farmer said that insurers do best when there is uniformity and predictability, and he urged NCOIL and the NAIC to continue efforts to further improve the system.

PRODUCER LICENSING

Sen. Leavell introduced a *Proposed [Resolution Urging Producer Licensing Modernization](#)*. He said that the resolution restated NCOIL's historic support of regulatory uniformity and work in the states toward modernization. He said that the resolution marked the third time the committee had considered an official policy on producer licensing. He expressed disappointment that the number of states that the NAIC deemed compliant with its producer licensing reciprocity standard had fallen from 47 to 40 since 2002, and he encouraged all states to become compliant. Sen. Leavell said that perceived inefficiencies in producer licensing had led some in the insurance industry to advocate for a federally proposed *National Association of Registered Agents and Brokers Reform Act (NARAB II)* but urged state legislators and regulators to work together to review existing state producer licensing laws and to eliminate any unnecessary resident and nonresident licensing barriers.

David Eppstein of the National Association of Professional Insurance Agents (PIA) expressed support for the resolution. He said that PIA believed that states were capable of providing uniformity and reciprocity, but since all 50 states had not developed uniform standards, PIA supported federal NARAB II legislation. As supporters of state regulation of insurance, Mr. Eppstein said, PIA hoped that states would continue their efforts to modernize producer licensing, irrespective of federal law.

Bill Anderson of the National Association of Insurance and Financial Advisors (NAIFA) also expressed support for the resolution. He stated that enormous progress had been made since adoption of the Producer Licensing Model Act in 2000. He used the success of the National Insurance Producer Registry (NIPR) as an example. He said that its electronic agent licensing process allowed entities to be licensed as non-resident producers across the country despite disparities in state laws.

Mr. Anderson expressed concern that problems remain affecting life insurance agents. He cited the following statistics:

- Social Security paid out \$1.9 billion in benefits each day.
- Life insurers paid out \$1.5 billion and served more than 75 million American families.
- While Americans understood the importance of life insurance, only one-third owned an individual life insurance policy.
- A Deloitte poll indicated that 45 percent of people without life insurance policies were interested in obtaining a policy but had not been approached by an agent or broker.

- Eighty (80) percent of NAIFA members reported losing clients who moved out of state because it was too expensive or too difficult to get licensed in another state.

Mr. Anderson said that there was a need for more life insurance agents to serve the needs of middle class Americans and encouraged states to pursue the uniformity espoused in the resolution.

Wes Bissett of the Independent Insurance Agents and Brokers of America (IIABA) spoke in favor of the resolution and suggested that some language referencing the Gramm-Leach Bliley and Producer Licensing Model Acts be clarified. The Committee voted unanimously to accept these recommendations and consider revisions at the Executive Committee meeting.

Sen. Leavell made a motion to adopt the resolution. Rep. Keiser proposed a friendly amendment to add the word "resident" to the second resolve clause to read: "BE IT ALSO RESOLVED that NCOIL urges state legislators and regulators to work together to review existing producer licensing statutes and regulations and to eliminate any unnecessary resident and nonresident licensing barriers." The amendment was adopted unanimously.

INTERSTATE INSURANCE PRODUCT REGULATION COMMISSION

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

- The Compact comprised 41 jurisdictions representing 70 percent of the nationwide premium volume for asset-based products.
- One hundred and forty (140) companies had registered in 2012, representing 65 percent of the marketplace.
- In 2012, authorizing legislation had been introduced in California, Florida, and New York but did not pass in any of the three states.
- In California there were ongoing discussions to synchronize state law with Compact requirements that may lead to a bill being introduced in 2013.
- Legislation in New York had passed the State Senate but had not been considered by the State Assembly.
- Arkansas, Connecticut, Montana, and Washington, DC might consider legislation in 2013.
- Massachusetts Mutual Life Insurance Company became the first company to receive approval across all individual insurance product lines including life, annuities, long-term care and disability income.
- The Compact Commission would review standards and models adopted prior to December 31, 2007, during its August meeting in Atlanta, Georgia, as required to by its bylaws.
- The Commission will hold a public hearing on the following uniform standards and amendments – Group Term Life Insurance Policy and Certificate Standards for Employer Groups, Amendments to Guaranteed Minimum Death Benefits for Individual Deferred Variable Annuities, and Group Annuities Uniform Standards Framework.

ADJOURNMENT

There being no further business, the meeting adjourned at 3:45 p.m.