

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS  
STATE-FEDERAL RELATIONS COMMITTEE  
NASHVILLE, TN  
NOVEMBER 21, 2013  
MINUTES

The National Conference of Insurance Legislators (NCOIL) State-Federal Relations Committee met at the Hilton in Nashville, Tennessee on Thursday, November 21, 2013 at 2:30 p.m.

Rep. Robert Damron of Kentucky, acting chair of the Committee, presided.

Other members of the Committee present were:

Rep. Lindsey Holmes, AK	Rep. George Keiser, ND
Rep. Kurt Olson, AK	Sen. Carroll Leavell, NM
Rep. Greg Wren, AL	Sen. William Larkin, NY
Sen. Jason Rapert, AR	Rep. Michael Stinziano, OH
Sen. Travis Holdman, IN	Rep. Brian Kennedy, RI
Rep. Joseph Fischer, KY	Rep. Bill Botzow, VT
Rep. Bart Rowland, KY	Rep. Kathie Keenan, VT
Sen. Dan Morrish, LA	Rep. Michele Kupersmith, VT

Other legislators present were:

Rep. Romy Cachola, HI	Rep. Paul Wieland, MO
Rep. Ronald Crimm, KY	Assem. Paul Aizley, NV
Rep. Mike Huval, LA	Sen. Jerry Klein, ND
Sen. Ronnie Johns, LA	Sen. Robert Hayes, SC
Rep. Janice Cooper, ME	Rep. Michael Gambrell, SC
Sen. Geoff Gratwick, ME	Sen. Phil Jensen, SD
Rep. Ken Goike, MI	Sen. Curtis Bramble, UT
Rep. Pete Lund, MI	Rep. Michael Marcotte, VT
Rep. Don Gosen, MO	

Also in attendance were:

Susan Nolan, Nolan Associates, NCOIL Executive Director  
Candace Thorson, Nolan Associates, NCOIL Deputy Executive Director  
Jennifer Webb, Nolan Associates, NCOIL Director of Legislative Affairs – DC

#### MINUTES

After a motion made and seconded, the Committee voted unanimously to approve the minutes of its July 11, 2013, meeting in Philadelphia, PA

#### CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

Ms. Webb provided an overview of the purpose and functions of CFPB. She stated that CFPB is an independent federal agency created under the Dodd-Frank Act. She noted that CFPB is funded by the Federal Reserve System, with a FY 2013 budget of approximately \$450 million. She stated that core functions of the CFPB are to write rules, supervise financial companies, enforce federal consumer protection laws, restrict unfair and deceptive trade practices, take consumer complaints, promote financial literacy, research consumer behavior, monitor financial markets for new consumer risks, and enforce laws that outlaw discrimination and unfair treatment in consumer finance.

Commissioner Sharon Clark of Kentucky briefed the committee on the relationship between CFPB and NAIC. She said that the NAIC is currently monitoring the activities of CFPB. She stated that

CFPB has no authority to regulate the business of insurance. She stated that there are limited areas where CFPB regulations can concern insurance, for example mortgage insurance and senior financial designations.

Commissioner Clark said one of the areas CFPB is currently looking at is lender-placed insurance. She said that some states, in which the housing market has collapsed and lender placed insurance is a major concern, are also working with the Federal Housing Finance Administration on this issue. She said that earlier in 2013 CFPB announced settlements with four private mortgage insurers. She noted that those settlements included allegations of kick-backs between insurers and banks. She stated that CFPB took these actions without consulting with the insurers' state-based regulators.

Commissioner Clark said that CFPB is exploring the area of senior financial designations and cracking down on people holding themselves out to be experts in giving seniors advice. She stated that this primarily affects the annuities industry. She said while CFPB is looking at this issue the NAIC also has a model law that addresses agent training.

Julie Gackenbach of Confrere Strategies stated that CFPB is controversial because the Dodd-Frank bill, which created CFPB, was in and of itself controversial, there was contentious debate over how the CFPB should be structured, and that the CFPB budget is not subject to annual appropriations in Congress, reducing the oversight power of Congress.

Ms. Gackenbach said that the bulk of CFPB priorities to date have been implementing regulations required by Dodd-Frank. She said that CFPB is now starting to move to other issues. She said CFPB is currently focused on issues in the auto financing industry. She stated that this is important for the insurance industry because CFPB might issue a set of federal standards regarding disparate impacts that could later influence insurance underwriting.

Ms. Gackenbach said that the beyond auto loan financing CFPB is also looking into debt collect practices, payday lending, and the private student loan market. She said that CFPB has indicated that in early 2014 the agency will start streamlining privacy notices and data sharing, which could also tangentially impact insurers.

Birny Birnbaum of the Center for Economic Justice said that CFPB has an important role as an agency that separates out consumer protections and market regulation from financial regulation generally. He said that this is important because prudential regulators did not stop market abuses prior to the 2007 market crash.

Mr. Birnbaum said that CFPB has touched on insurance issues such as title insurance, mortgage insurance, consumer credit insurance, and force placed insurance. He said that CFPB has no authority over the regulation of insurance, but has authority over the banks and mortgage servicers who deal with insurance. He said that from his perspective, he would like to see more coordination between the states and CFPB. He said that coordination would help make consumer protections more robust and also educate CFPB on state insurance regulation.

#### TRIA REAUTHORIZATION

Kevin McKechnie of the American Bankers Insurance Association (ABIA) noted that he did not know when TRIA would be reauthorized. He stated that there has been no movement in the Senate and that House leadership is reticent to reauthorize TRIA, as is. He stated that since the last NCOIL meeting, there have been two hearings in the House and one hearing in the Senate. He noted that the Senate's recent rule change to block filibusterers on certain court nominees served to further erode the already combative environment in Washington, D.C., making TRIA's quick renewal in 2014 less likely.

Mr. McKechnie said that the most important feature of TRIA renewal, from the point of view of ABIA, is the make available provision. He said that if the make-available provision of TRIA fails to survive the reauthorization process, property and casualty insurers are unlikely to offer terrorism insurance.

Commissioner Jim Donelon of Louisiana, NAIC President, stated that it is likely TRIA will not be reviewed until the end of 2014, even though policies are being written now with exceptions depending on Congressional action. He said that GAO and the President's Working Group are both working on reports analyzing TRIA and that NAIC expects that these reports will play a guiding role in the reauthorization process. He said that in August 2013 NAIC passed a resolution supporting the passage of TRIA.

Sen. Holdman asked Commissioner Donelon if he could briefly summarize a meeting that the NAIC had with the White House regarding the ACA and international insurance issues on November 20. Commissioner Donelon replied that a delegation of state regulators met with the President for 50 minutes. He stated that the President is supportive of states' rights regarding insurance regulation. He stated that following the meeting, a second meeting was set up with Treasury Secretary Jack Lew.

#### GAO FINDINGS REGARDING INSURANCE AND THE FINANCIAL CRISIS

Comm. Donelon stated that in late July, GAO issued a report on the impact of the financial crisis on the insurance industry and the state regulatory response to the crisis. He said that the report was compiled in response to a Congressional request. He stated that the report's main findings were that the effects of the crisis were largely limited to certain products and lines of insurance, that the actions of state regulators, federal programs, and insurance business practices helped mitigate some effects of the crisis, and that regulators have continued efforts to strengthen the regulatory system since the crisis.

Commissioner Donelon noted that the report highlighted the steps that NAIC took in the wake of the financial crisis, including increasing the frequency of information sharing, forming relevant working groups, and amending model laws. He stated that NAIC's Solvency Modernization Initiative (SMI), a self-examination of the framework for regulating U.S. insurers', was prominently noted in the report.

#### NATIONAL ASSOCIATION OF REGISTERED AGENTS AND BROKERS ACT (NARAB II)

Wes Bissett of the Independent Insurance Agents & Brokers of America (IIABA) stated that the Senate NARAB bill had passed out of the Senate Banking Committee in June, but had not seen movement since then, despite seemingly strong support. He said that the House version of the NARAB II bill was passed out of the full House on September 10.

David Eppstein of the Professional Insurance Agents (PIA) stated that, like IIABA and several other organizations, PIA supports NARAB II because it is federal legislation, but not federal regulation. He stated that PIA supports the state-based regulatory system.

#### SLIMPACT/NIMA

Rep. Keiser said that Merle Scheiber, the Insurance Director of South Dakota, recently contacted NCOIL about SLIMPACT. He said that South Dakota, a member of NIMA, has expressed interest in becoming a contracting member of SLIMPACT and Director Scheiber is currently in the process of reaching out to the other NIMA and SLIMPACT states. He said he believes that this agreement will be a benefit to both SLIMPACT and NIMA and will help to meet the requirements laid out by Congress in the Nonadmitted Insurance and Reinsurance Reform Act (NIRRA) regarding the

adoption of uniform requirements, forms and procedures to facilitate the reporting, payment, collection and allocation of premium taxes for nonadmitted insurance.

#### N2 MARKET REGULATION WORKING GROUP

Rep. Keiser stated that the N2 Market Regulation Working Group has been a very cooperative effort between NCOIL and NAIC. He said that following the last working group meeting, the group reached out to the industry and asked the industry to develop a list of five problem areas relative to market conduct. He said that the industry has found it difficult to reach agreement on the five most collectively important issues. He said the working group would discuss the list at its next meeting. He said that the working group will be having a meeting at the NAIC December meeting.

#### INTERSTATE INSURANCE PRODUCT REGULATION COMMISSION (IIPRC) UPDATE

Karen Shutter of the IIPRC reported that there are currently 43 compacting states. She said that Arkansas and Montana are the two most recent states to join the IIPRC. She thanked Sen. Jason Rapert for his assistance with Arkansas' membership. She said that the legislative committee for the IIPRC has been very active and includes a number of NCOIL legislators.

Ms. Shutter said that Florida is currently working on a legislative report regarding the IIPRC and may consider adopting a standard version of the compact in 2014. She said that as of the end of October the IIPRC has seen a 20 percent growth in revenue and is about 13 percent under budget on expenses. She said that the IIPRC in 2013, for the first time, will not have to draw on the NAIC line of credit in order to meet operational expenses. Ms. Shutter stated that the IIPRC annual meeting would take place in December in coordination with the NAIC meeting.

#### CONSIDERATION OF PROPOSED 2014 CHARGES

Upon motion made and seconded, the Committee unanimously adopted the proposed 2014 charges:

- Review FIO report on U.S. regulation and take position as appropriate
- Monitor and facilitate progress of IIPRC
- Continue working toward uniformity in surplus lines regulation
- Work toward enhancement of state produce licensing and market conduct regulation
- Support efforts to reauthorize the terrorism risk insurance program
- Work with other state organizations to form consensus/positions on state-federal issues

#### ADJOURNMENT

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