

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
STATE-FEDERAL RELATIONS AND
FINANCIAL SERVICES & INVESTMENT PRODUCTS MEETING
LITTLE ROCK, ARKANSAS
FEBRUARY 26, 2016
DRAFT MINUTES

The National Conference of Insurance Legislators (NCOIL) State-Federal Relations and Financial Services & Investment Products Joint Committee met at the Little Rock Marriott in Little Rock, Arkansas on Friday, February 26, 2016 at 2:00 p.m.

Sen. Robert Hayes, Jr. of South Carolina, chair of the State-Federal Relations Committee, presided.

Other members of the Committee present were:

Sen. Jason Rapert, AR
Rep. Martin Carbaugh, IN
Rep. Matt Lehman, IN
Rep. Joseph Fischer, KY
Rep. Steve Riggs, KY
Rep. George Keiser, ND

Sen. Jerry Klein, ND
Sen. Neil Breslin, NY
Sen. James Seward, NY
Rep. Brian Kennedy, RI
Rep. Bill Botzow, VT
Rep. Kathie Keenan

Other legislators present were:

Sen. Gregory Standridge, AR
Sen. Travis Holdman, IN
Rep. Ken Goike, MI
Rep. Henry Vaupel, MI

Sen. Ed Buttrey, MT
Assem. William Barclay, NY
Sen. Kevin Bacon, OH

Also in attendance were:

Tom Considine, NCOIL CEO
Paul Penna, Executive Director, NCOIL Support Services
Christina Zuk, Legislative Director, NCOIL Support Services
Paulina Grabczak, Deputy Legislative Director, NCOIL Support Services

MINUTES

Upon a motion made and seconded, the Committee unanimously approved the minutes of its November 13, 2015 meeting in San Antonio, Texas.

SPECIAL DISCUSSION OF THE IMPACT OF THE DODD-FRANK ACT ON INSURANCE

Chairman Hayes called the following panelists to testify:

- Sam Proctor, Debevoise & Plimpton
- Julie Gackenbach, Confrere Strategies
- Kevin McKechnie, American Bankers Association (ABA)

Julie Gackenbach of Confrere Strategies spoke first. Ms. Gackenbach stated that we are now in year six of the Dodd-Frank Act, and we continue to work through a number of issues. It has changed the way we look at insurance. For instance, where the traditional system used to look more toward the protection of policy holders, now we are thinking about whether we should be doing standards that affect the industry and the economy as a whole.

We also have a number of entities that are in regulatory competition. As a result, there's almost a sense of "we are going to out-regulate the regulators." We've moved beyond the traditional regulatory system for insurance that we've seen in the states. We're duplicating efforts in many ways – for instance, we've set up the FIO and the Office of Financial Research at the federal level that spend time analyzing and gathering information in many cases where the state is already gathering that information.

Ms. Gackenbach further stated that the regulatory and legal environment has become much more complex, and that there are many more threats to the state regulation of insurance.

Kevin McKechnie from the American Bankers Association (ABA) stated that at its conception the idea was that the Consumer Financial Protection Bureau (CFPB) would be barred from regulating the business of insurance. So our goal today is to measure to what degree that injunction has been undermined.

Mr. McKechnie further stated that we are getting dangerously close to a point where NCOIL should consider having sessions on dual regulation on the horizon – something we were trying to specifically avoid ten years ago.

Two years ago, Mr. McKechnie circulated a memo to the Committee outlining the various authorities in Dodd-Frank. That memo has since been refreshed, but is not ready for distribution yet, but will be available at the NCOIL's next meeting in Portland.

Samuel E. Proctor of Debevoise & Plimpton stated that the international and domestic insurance regulatory landscape is undergoing significant changes as part of a system-wide response to the global economic crisis.

Mr. Proctor stated that the International Association of Insurance Supervisors is implementing stricter capital and supervisory standards for large insurers at the international level. In the United States, we see insurers subject to increasing federal regulation in a fairly complex set of ways. For instance, the Financial Stability Oversight Council has designated three insurers as "systemically important financial institutions (or "SIFIs"): AIG, MetLife, and Prudential. This designation subjects them to Federal Reserve supervision and enhanced prudential standards.

Mr. Proctor stated that while Dodd-Frank generally preserves the U.S. insurance regulatory framework as it existed pre-crisis, in areas where it impinges on existing arrangements, the impact is pronounced. Those impacts predominantly fall on larger and more complex insurance groups. However, several of the key impacts have yet to fully manifest themselves and there are additional changes on the horizon.

Sen. Hayes asked if there is anything that any of the states are doing in response to Dodd-Frank. Mr. Proctor responded that New York always occupies a unique place in terms of

insurance and regulation generally, but that most of the activity is happening at the NAIC level. Ms. Gackenbach stated that states may be a little more involved when you see what the actual parameters are, particularly if they pre-empt state law. Ms. Gackenbach further stated that there may be a time when the states will have to say, “we still maintain ultimate regulatory control” in this space.

DISCUSSION OF INITIATIVES TO PROMOTE CYBER-SECURITY/INSURANCE

Sen. Hayes called the following panel to testify:

- Kevin McKechnie, American Bankers Association (ABA)
- Tim Nagel, Prudential
- Wes Bissett, Independent Insurance Agents and Brokers of America (IIABA)

Mr. McKechnie stated that he wanted to bring attention to a study released by the Financial Services Sector Coordinating Council (FSSCC) for Homeland Security and the American Bankers’ Association (ABA) to address the issue of cyber security being poorly understood. As a result, there is now a “buyers’ guide” linking a number of tips with a number of technologies in this space. Mr. McKechnie would be happy to make this buyers’ guide available to NCOIL.

Mr. Nagel stated that he agreed with the lunchtime comments of Governor Hutchinson that cyber security should be on everyone’s mind. For cyber security, there’s generally three things we focus on:

- Confidentiality: Is the information safe and protected?
- Integrity: Can we trust and rely upon the data?
- Availability: Do I have the platform to use the data?

Mr. Nagel stated that we should be focusing more closely on the integrity and availability of data.

Mr. Nagel further stated that the information of interest in cyber-security is shifting. The Office of Personnel Management was hacked for personal information, not for money. This information is used to build identities.

Mr. Bissett stated when the Committee last met in November, he spoke about a document that the NAIC was working on framed as a Cyber Security Bill of Rights. Since that time, a re-fashioned document called the “Road Map for Cyber Security Consumer Protections” was adopted in December by the NAIC. It outlines a number of standards that the NAIC felt consumers were entitled to, and operates as a bill of rights. The NAIC is also working on a cyber security model law, though Mr. Bissett has not yet seen a copy of it.

Mr. Bissett has a concern that while we may hope that the NAIC model law process would result in uniformity, he suspects that that may not be the case. The NAIC is expected to release a draft of the model law in the coming weeks.

Mr. Bissett stated that while they are awaiting a first draft from NAIC, the IIABA is concerned about some of the ideas that have been floated. The IIABA does not want to see all data treated the same, without a recognition that different entities have different

types of resources. They also do not want to see prescriptive, narrow types of requirements that do not take into account future changes in the marketplace.

Kate Kiernan from the American Council of Life Insurers (ACLI) stated that they are looking forward to the NAIC's model law helping to provide uniformity on laws regarding cyber security breaches. Ms. Kiernan stated that at the present moment, there are 47 different state requirements on this issue.

Chara Bradstreet from NAIC stated that the intent of the coming model act will be to minimize confusion over expectations with respect to data held by insurers. She further stated that NAIC has engaged with the Administration and federal authorities on this issue and would welcome NCOIL's input.

UPDATE ON IIPRC DEVELOPMENTS

Sen. Hayes called Karen Schutter from the Interstate Insurance Product Regulation Commission to provide an update on the Interstate Insurance Product Regulation Compact (IIPRC). Ms. Schutter provided a map with all of the compacting states, which at present time is 44 states. Ms. Schutter noted that Connecticut is considering joining the compact this year.

The next meeting of the IIPRC will be Saturday April 2, 2016 at 12:30 central time in New Orleans, Louisiana in conjunction with the NAIC Spring Meeting. NCOIL members are encouraged to attend.

ADJOURNMENT

There being no further business, the Committee adjourned.