

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS (NCOIL)

**Resolution Opposing the Proposed Amendment to Internal Revenue Service Regulations
Eliminating the Deductibility of Captive Insurance Company Reserves**

*Adopted by the NCOIL Financial Services & Investment Products Committee on November 15, 2007,
and Executive Committee on November 17, 2007.*

Sponsored by Rep. Kathleen Keenan (VT)

WHEREAS, the cost of insurance is one of the largest single business expenses, prompting an increasing number of corporations to establish insurance subsidiaries within their corporate framework known as captive insurance companies, and

WHEREAS, many captive insurance companies were established offshore to maximize their operational flexibility and the use of financial incentives, and

WHEREAS, the corporate parents soon recognized that managing insurance subsidiaries with no, unrestricted, or ineffective regulatory oversight could lead to damaging financial consequences, and

WHEREAS, individual states have realized that the captive insurance industry, if offered a comprehensive, cooperative, and reasonable regulatory environment, could be persuaded to base its companies in their respective states along with the employees required to manage its operations, and

WHEREAS, beginning in the early 1980s, individual states have adopted laws and administrative rules that establish a secure and helpful regulatory environment for the captive insurance industry, and

WHEREAS, the captive insurance industry has brought many jobs to the states that have extended an invitation of welcome, and

WHEREAS, an additional incentive for captive insurance companies to be organized in the United States has been their ability, in accordance with Internal Revenue Service regulatory section 1.502, to deduct from their annual corporate income tax payments, the interest accrued from deposited cash reserves, and

WHEREAS, these reserves represent the funds that captive insurance companies maintain on deposit to pay claims which may arise, and

WHEREAS, on September 28, 2007, the Internal Revenue Service published proposed amendments to section 1.502 of its regulations that would eliminate the deductibility of cash reserves that belonged to captive insurance companies, and

WHEREAS, under the proposed rule amendment, captive insurance companies are defined as insurance companies in which more than five percent of the insured companies are groups under a common corporate umbrella and all captive insurance companies legally domiciled in the United States would be subject to the amended federal tax rule, and

WHEREAS, the termination of this federal income tax deduction would drive the captive insurance companies from the United States and back to offshore locations including Bermuda and the Cayman Islands, and

WHEREAS, this proposed change in federal tax regulations would have a significant impact on the insurance industry and would push the captive insurers into a less hospitable and reliable regulatory environment.

NOW, THEREFORE, BE IT RESOLVED that the National Conference of Insurance Legislators (NCOIL) urges the Internal Revenue Service not to adopt the proposed amendments to section 1.502 of the federal tax regulations.

BE IT ALSO RESOLVED THAT NCOIL will forward a copy of this resolution to the Internal Revenue Service, to members of the U.S. House Financial Services and the U.S. Senate Banking Committees, and to state legislative leaders across the country.