

**NATIONAL CONFERENCE OF INSURANCE LEGISLATORS (NCOIL)**

**Resolution Concerning Amendments to the State Liquidation Laws  
Addressing Large Deductibles**

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*Adopted by the NCOIL Property-Casualty Insurance Committee on July 20, 2007, and Executive Committee on July 21, 2007.*

***Sponsored by Rep. Craig Eiland (TX) and Sen. James Seward (NY)***

WHEREAS, all state legislatures have enacted insurance liquidation laws to deal with the insolvencies of insurance companies, which means the federal bankruptcy code does not apply; and

WHEREAS, all state legislatures have also created guaranty funds as a limited safety net to pay certain claims under insurance policies when an insurance company becomes insolvent; and

WHEREAS, to the extent that costs of guaranty fund claim payments are not reimbursed by the estate of the insolvent insurer, these costs are passed on to policyholders and state citizens; and

WHEREAS, commercial lines products for sophisticated buyers often include a “large deductible” component, frequently ranging from \$100,000 to \$1 million; and

WHEREAS, under a large-deductible policy, a solvent commercial insurer will be reimbursed by the insured for the large-deductible amount; and

WHEREAS, it is a well-established principle in the current guaranty fund laws that the guaranty funds should not assume any risk that is greater than that of the insolvent insurer; and

WHEREAS, if states discard this well-established principle, the insured’s large-deductible reimbursement will not be available to the guaranty fund, thus creating a greater likelihood of additional insolvency costs being passed on to the citizens of the states; and

WHEREAS, some states have already acted consistent with the well-established principle and provided that the amounts paid by the guaranty funds within the large-deductible limits should be promptly and fully reimbursed to the guaranty funds, and that these amounts should not be added to the insolvent insurer’s overall estate assets;

NOW, THEREFORE, BE IT RESOLVED that the National Conference of Insurance Legislators:

- remains committed to the public policy that created guaranty funds as a limited safety net to pay certain claims under insurance policies when an insurance company becomes insolvent
- affirms the well-established principle in the liquidation and guaranty fund laws that the guaranty funds should not assume any risk greater than that assumed by the insolvent insurer
- opposes any amendment to the liquidation laws that discards this well-established principle and thus results in higher insurance premiums or taxes for citizens of the states

- supports the adoption of amendments to state liquidation laws requiring that amounts paid by guaranty funds within large deductibles should be promptly and fully reimbursed to the guaranty funds instead of being added to the estate assets of the insolvent insurer

BE IT FURTHER RESOLVED that a copy of this resolution be sent to all state legislative leaders, insurance committee chairs, insurance commissioners, and governors.

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