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NCOIL ADVANCES MODEL TO REFORM OUTDATED GUARANTY FUND LAWS

Seattle, Washington, July 24, 2007 — The National Conference of Insurance Legislators (NCOIL) took strides to strengthen out-of-date guaranty fund laws on July 20, when its Property-Casualty Insurance Committee engaged in an important debate regarding a proposed *Post-Assessment Property and Liability Insurance Guaranty Association Model Act*. The discussion took place during the July 18 through 22 NCOIL Summer Meeting here.

According to Sen. Ruth Teichman (KS), chair of the Committee and co-sponsor of the model act, “With the proposed model, NCOIL aims to enhance and modernize guaranty fund laws so they can better protect consumers now that insurance products have become more complex. Guaranty systems are the safety nets that innocent consumers rely on when affected by insurance company insolvencies. We have an obligation to ensure that policyholders get the protection they deserve.”

Legislators in Seattle agreed that only claimants below a certain net worth deserve guaranty fund money—consistent with the idea that guaranty funds should help people most in need after their insurers becomes insolvent.

The Committee would also cap the amount of money that could go to any individual claimant, but delayed a final vote on the issue until the November NCOIL meeting. Legislators will then review a drafting note saying that, for some states with higher costs of living, greater limits might be appropriate.

The Committee—concerned that the model might be expanded beyond its intent—voted against including a purpose clause, instead relying on a summary that would provide a general overview.

The discussion centered on 11 key discrepancies between the proposed NCOIL model, an NAIC version, and/or draft revisions to the NAIC act.

Still to be considered by the Committee—whether to: provide coverage for business previously assumed by an insolvent insurer; to allow only insurance industry representatives on a guaranty fund's board of directors; to set an alternative bar date beyond which insureds could no longer file claims; to prevent a receiver from managing guaranty fund payouts; and to authorize guaranty funds to intervene in relevant court proceedings.

Legislators also must look at whether guaranty funds have the right to obtain claims records from third-party administrators; whether guaranty fund claims determinations should be final; and whether certain immunity provisions are appropriate.

The Seattle debate followed more than one year of discussion. The model, which the Committee deferred at the 2007 Spring Meeting due largely to time constraints, is co-sponsored by Sen. Carroll Leavell (NM).

NCOIL is an organization of state legislators whose primary interest is insurance legislation and regulation. Many legislators active in NCOIL either chair or are members of the committees responsible for insurance legislation in their respective state houses across the country. More information is available at www.ncoil.org.

For further details, please contact the NCOIL National Office at 518-687-0178.

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