Resolution Urging the Senate Banking, Housing and Urban Affairs Committee To Exclude Insurers from Systemic Risk Regulation and Assessments for the Resolution of Systemically Risky Companies

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Adopted by the NCOIL Financial Services & Investment Products Committee on March 5, 2010, and Executive Committee on March 7, 2010.

Sponsored by Rep. Robert Damron (KY), Assem. Joseph Morelle (NY), Rep. Greg Wren (AL)

WHEREAS, the U.S. Senate Committee on Banking, Housing and Urban Affairs on November 19, 2009 began markup of the *Restoring American Financial Stability Act of 2009*, and such committee is planning to resume its markup very shortly; and

WHEREAS, such legislation would subject certain insurance companies to an additional layer of regulation for systemic risk that could interfere with state solvency regulation, a federal resolution authority that could interfere with the state resolution of insurers on behalf of policyholders, and assessments that would unilaterally take money out of the insurance marketplace to pay for the federal expenses of resolving failing systemically significant financial firms; and

WHEREAS, insurance companies under the state solvency regulatory system remained solvent during the recent financial crisis and well able to meet their obligations to policyholders and other beneficiaries; and

WHEREAS, it is recognized that insurance activities in general do not create systemic risk to the rest of the financial system or the U.S. economy at large, because of the industry's low concentration, low barriers to entry and policyholder and beneficiary protection through the state rehabilitation, insolvency and guaranty fund system; and

WHEREAS, subjecting insurance companies to additional and duplicative federal regulation for systemic risk would jeopardize the ability of state insurance regulators to provide the high level of solvency protection they currently provide to policyholders, beneficiaries, and the U.S. economy, while subjecting insurers to substantial unnecessary costs that must be passed on to consumers; and

WHEREAS, superimposing a federal resolution system on the state rehabilitation, liquidation and guaranty fund system would jeopardize the payment of claims to policyholders and beneficiaries and would give priority to the protection of the interests of creditors and investors over insurance consumer protection; and

WHEREAS, subjecting insurance companies to liability for assessments to pay for the resolution of failing systemically risky non-insurers would inappropriately shift the costs of financial industry segments that pose significant systemic risk to an industry that does not pose systemic risk, creating additional moral hazard that would increase financial system risk and distort economic incentives; and

WHEREAS, insurance companies already pay the resolution costs for failed insurance companies through the state guaranty fund system, and to force them to pay a second time for the failures of systemically risky non-insurers would be a unilateral subsidy of creditors and investors of highly leveraged and systemically risky firms by insurance consumers, further increasing moral hazard and jeopardizing the safety and soundness of the financial system;

NOW THEREFORE, BE IT RESOLVED that NCOIL urges the Senate Committee on Banking, Housing and Urban Affairs to exclude the insurance industry from systemic risk regulation, federal resolution authority and assessments to fund the resolution of systemically risky financial firms in any financial services regulatory reform legislation that it considers; and

BE IT FINALLY RESOLVED that a copy of this resolution shall be sent to state legislative leaders and other state officials, Members of the U.S. Senate Committee on Banking, Housing, and Urban Affairs, Members of the U.S. House Committee on Financial Services and the U.S. Treasury Department.