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Model Act to Support State Regulation of Insurance Through More Informed Policymaking

To be considered by the NCOIL Executive Committee on March 3, 2017

**Sponsored by Asm. Ken Cooley, CA*

Preamble:

The purpose of this Law is to secure more informed legislative oversight of the insurance industry. Under the McCarran-Ferguson Act, 10 U.S.C. § 1011, primary responsibility for setting insurance regulatory policy rests with the States. In order to regulate a large, sophisticated industry in interstate commerce, the States must work together to, among other things, develop model insurance legislation. Most such model laws, however, are written not by legislators but rather by executive branch officials, through the National Association of Insurance Commissioners (NAIC).

State insurance commissioners act at NAIC in large part operating under a delegation of authority from the states' legislative branch, but without oversight of state legislators. Although technically NAIC models must be passed in the States, in reality, the most important models are mandated under the NAIC accreditation system.

NAIC, a fully funded 501(c)(3), generates almost all of its approximately \$100 million budget from funds generated through its members' status as government regulators. Today that funding base has diversified to include assessments of licensees mandated to use NAIC's services by insurance commissioners, but a key original funding source that allowed NAIC to grow to where it is today was NAIC bylaws-required assessments of member States.

Due to the fact that State legislators must be educated about the complexities of insurance public policy, and be kept abreast of developments and trends in insurance markets and regulation in order to be able to work together as lawmakers to draft appropriate national model legislation, State Legislators specializing in insurance-related issues organized the National Conference of Insurance Legislators (NCOIL) in 1969. State insurance budgets should ensure that both NAIC and the NCOIL are properly supported to ensure the purposes set forth in this Preamble.

Section 1. Purpose

The purpose of this Act is to amend a State's insurance code provision analogous to Section 3(C) of the State's adoption of the NAIC Model Law on Examinations to require that State insurance

budgets ensure that both NAIC and NCOIL are properly supported to ensure that insurance public policymakers are properly educated on the issues before them.

Section 2. Budget Appropriation for NAIC & NCOIL

The State insurance code provision analogous to Section 3(C) of the State's adoption of the NAIC Model Law on Examinations is amended as follows:

(C)

(i) In lieu of an examination under this Act of a foreign or alien insurer licensed in this state, the commissioner may accept an examination report on the company as prepared by the insurance department for the company's state of domicile or port-of-entry state until January 1, 1994. Thereafter, such reports may only be accepted if (1), the insurance department was at the time of the examination accredited under the National Association of Insurance Commissioners' Financial Regulation Standards and Accreditation Program or (2) the examination is performed under the supervision of an accredited insurance department or with the participation of one or more examiners who are employed by an accredited state insurance department and who, after a review of the examination work papers and report, state under oath that the examination was performed in a manner consistent with the standards and procedures required by their insurance department.

(ii) The Department of Insurance shall annually in its budget seek appropriation for and fund its annual member assessment required under Article II of the National Association of Insurance Commissioners' bylaws.

(iii) The Department of Insurance shall annually in its budget seek appropriation for and fund memberships and associated travel and other reasonable expenses necessary for the chairmen and ranking members of the House and Senate insurance committees of jurisdiction to fully participate in the National Conference of Insurance Legislators.

Section 3. Effective Date

This Act shall take effect _____