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## NATIONAL COUNCIL OF INSURANCE LEGISLATORS (NCOIL)

### **Model Act to Support State Regulation of Insurance by Requiring Competition Among Rating Agencies**

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*Adopted by the NCOIL Financial Services Committee on November 16, 2017*

*Adopted with amendments by the NCOIL Executive Committee on November 19, 2017*

*Sponsored by Rep. Steve Riggs (KY) and Sen. Bob Hackett (OH)*

#### **Section 1. Short Title**

Model Act to Support State Regulation of Insurance by Requiring Competition among Insurance Rating Agencies

#### **Section 2. Findings and Purpose**

The Legislature finds that:

- 1) Protecting consumers and ensuring the safety and soundness of insurance companies in the United States have been the prime objectives of state insurance regulation for over 150 years.
- 2) The states have sole authority for the regulation of the business of insurance as provided under the McCarran-Ferguson Act.
- 3) State insurance regulation has been successful and effective.
- 4) State insurance regulation has in place on-going substantive procedures, processes, and protocols to license, regulate and supervise insurers.
- 5) There is no requirement that duly licensed insurance companies be rated and that among those that are, companies make choices about rating organizations based on management's evaluation of the perceived strengths of each rating organization as it relates to their markets and business models.
- 6) The test of insurer ratings is whether in the long run the company performs as expected, and in that regard each of these rating organizations on the whole have a consistent record of accurately gauging the ability of the companies to pay claims and service their customers.
- 7) An unintended yet direct consequence of designating a single, exclusive insurer rating requirement in laws, statutes, bulletins or other public material is the diminution of "public regulation by public authority" and an implication of private regulation of insurance.
- 8) A response to this threat to public regulation is necessary.

9) Multiple, competent insurer rating organizations exist.

It is the purpose of this Act to:

To require competition in insurer ratings to benefit consumers, duly licensed insurance companies, producers, and other third-party stakeholders by promulgating and embracing insurer rating requirements in laws and regulations that incorporate the enumeration of multiple, competent insurer rating organizations.

### **Section 3. Definitions**

As used in this Act:

- 1) “Competent Rating Agency” means A.M. Best Rating Services, Inc. Company; Demotech, Inc.; Fitch Group; Moody’s Investor Service; Kroll Bond Rating Agency; Standard and Poor’s Financial Services LLC or another rating agency certified or approved by a national entity that engages in such a process. The process shall include, but not necessarily be limited to, the following requirements:
  - a. A requirement for the rating agency to register and provide an annual updated filing;
  - b. Record retention requirements;
  - c. Financial reporting requirements;
  - d. Policies for the prevention of misuse of material nonpublic information;
  - e. Management of conflicts of interest, including prohibited conflicts;
  - f. Prohibited acts practices;
  - g. Disclosure requirements;
  - h. Required policies, practices, and internal controls;
  - i. Standards of training, experience and competence for credit analysts.
- 2) “Public Entity” means any department, agency, special purpose district, or other instrumentality of this State and county or local government in this State.

### **Section 4. Requirements**

No public entity shall bar any competent rating agency in designating the use of insurer rating requirements in laws, statutes, regulations, rules, bulletins, or other public materials.

### **Section 5. Effective Date**

This Act shall take effect immediately.