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Sen. Jason Rapert, AR  
Sen. Travis Holdman, IN

For Immediate Release  
July 25, 2019  
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## **NCOIL ADOPTS MODEL ACT CONCERNING INTERPRETATION OF STATE INSURANCE LAWS**

*Concerns American Law Institute's Restatement of Law, Liability Insurance*

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Manasquan, NJ – At the recently concluded 2019 NCOIL Summer Meeting in Newport Beach, CA the NCOIL Property & Casualty Insurance Committee adopted a Model Act Concerning Interpretation of State Insurance Laws sponsored by Kentucky Representative Joe Fischer. The measure passed on a voice vote and was affirmed by the NCOIL Executive Committee.

The model is in direct response to the American Law Institute's (ALI) Restatement of the Law, Liability Insurance which has garnered significant national attention since it began development.

"As legislators, we preciously guard legislative prerogatives" said Rep. Fischer. "I am grateful to the ALI and their scholars for their willingness to engage in a constructive dialogue with NCOIL, and the work that they produce. I sponsored this measure because it is important to make crystal clear how to properly interpret state insurance laws, and to stress that laws are what legislators vote to enact and executives sign. It is not what others interpret or wish it to be."

"NCOIL has been engaged with the ALI and their scholars at multiple NCOIL meetings" said LA Sen. Dan "Blade" Morrish, NCOIL President. "I want to thank Rep. Fischer for his work on this and echo what Rep. Fischer stated – as an organization, NCOIL will guard legislative prerogatives and ensure our legislative work is protected from academics that interpret the law into something it is not."

NCOIL began a constructive dialogue with the ALI on this issue in May 2017 and then discussed it at the NCOIL Property & Casualty Insurance Committee at the 2017 NCOIL Summer Meeting. At the subsequent national NCOIL meeting in Phoenix, AZ in November 2017 there was a General Session titled "A Restatement or a NEWstatement – Examining the ALI's Proposed Restatement of the Law of Liability Insurance." The topic has been on every national meeting agenda since that first discussion in July 2017 often with ALI representatives participating.

"For more than two years over seven meetings and an additional interim committee tele-meeting, during which a Resolution on this issue was adopted, NCOIL has taken every available step to resolve this amicably" said Commissioner Tom Considine, NCOIL CEO. "There was a consistent and constructive dialogue with the ALI during this time period, and we appreciate the changes made from the initial draft. Certain select portions remain more of an ALI wish list than a statement of the majority rule of current law. NCOIL believes it is important for States to clarify when such a document is appropriate as an authority for jurists."



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***Sound Public Policy In 50 States For 50 Years***

A full copy of the model is below.

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## **National Council of Insurance Legislators (NCOIL)**

### **Model Act Concerning Interpretation of State Insurance Laws**

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*\*Sponsored by Rep. Joseph Fischer (KY)*

*\*Adopted by the Property & Casualty Insurance Committee on Friday, July 12<sup>th</sup>, 2019 and affirmed by the Executive Committee on Saturday, July 13<sup>th</sup>, 2019*

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

This Act shall be known as the "Model Act Concerning Interpretation of [State] Insurance Laws."

#### **Section 2. Interpretation of [State] Insurance Laws**

A statement of the law in the American Law Institute's Restatement of the Law, Liability Insurance does not constitute the law or public policy of this state if the statement of the law is inconsistent or in conflict with:

- (1) The Constitution of the United States or of this state;
- (2) A statute of this state;
- (3) This state's case law precedent; or
- (4) Other common law that may have been adopted by this state.

#### **Section 3. Effective Date**

This Act shall take effect immediately.

*NCOIL is a national legislative organization with the nation's 50 states as members, represented principally by legislators serving on their states' insurance and financial institutions committees. NCOIL writes Model Laws in insurance and financial services, works to preserve the State jurisdiction over insurance as established by the McCarran-Ferguson Act seventy-four years ago, and to serve as an educational forum for public policymakers and interested parties. Founded in 1969, NCOIL works to assert the prerogative of legislators in making State policy when it comes to insurance and educate State legislators on current and longstanding insurance issues.*