NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
LIFE INSURANCE COMMITTEE
SAN DIEGO, CALIFORNIA
NOVEMBER 17, 2005
DRAFT MINUTES

The Life Insurance Committee of the National Conference of Insurance Legislators (NCOIL) met at the Hilton San Diego Resort in San Diego, California, on November 17, 2005.

Rep. Larry Taylor of Texas, chair of the Committee, presided.

Other members of the Committee present were:

Sen. Steven Geller, FL
Rep. Ron Crimm, KY
Sen. Alan Sanborn, MI
Sen. Bob Dearing, MS
Rep. George Keiser, ND
Sen. Carroll Leavell, NM
Rep. Todd Book, OH
Rep. Gene Seaman, TX

Other legislators present were:

Rep. Jo Oldson, IA
Rep. Michael Ripley, IN
Rep. Nile Dillmore, KS
Sen. Ruth Teichman, KS
Sen. Harvey Tallackson, ND
Rep. Donald Flanders, NH
Assem. William Barclay, NY
Rep. Brian Kennedy, RI
Del. Harvey Morgan, VA
Sen. Ann Cummings, VT

MINUTES

Upon a motion duly made and seconded, the Committee voted unanimously to approve the minutes of its July 7, 2005, meeting in Newport, Rhode Island.

HURRICANE KATRINA'S EFFECT ON LIFE INSURANCE MARKETS

Bruce Ferguson of the American Council of Life Insurers (ACLI) addressed the Committee. He noted that there was less loss of life (about 1,300) from Hurricane Katrina than predicted (perhaps 25,000) but that at this time he did not have statistics on life insurance coverage. He discussed ACLI's working relationship with the Alabama, Louisiana and Mississippi Insurance Departments concerning orders emanating subsequent to Hurricane Katrina and commended these Departments for their actions under a stressful situation.

Sen. Geller asked Mr. Ferguson whether the existence of many fatalities would have affected life insurers' claims paying abilities. Mr. Ferguson replied that he thought many lives that could have been lost likely would have been uninsured but that fundamentally the question was difficult to answer.

Sen. Leavell inquired what actions were taken by Insurance Departments with respect to premium payments. Mr. Ferguson noted that in affected areas grace periods were instituted for premium payments, pursuant to orders from the three states' Insurance Departments. Sen. Leavell then asked whether in affected areas (citing specifically New Orleans) any insurer offices were put out of business. Mr. Ferguson noted that one ACLI member, Pan America Life, was located in New Orleans but that this company had made contingency plans in the event of a disaster. These plans involved moving operations to Texas and proved successful because the company was able to successfully continue its operations within days of Hurricane Katrina.

FEDERAL LEGISLATION REGARDING LONG-TERM CARE PARTNERSHIP PROGRAMS

Megan Mararella of the National Association of Health Underwriters (NAHU) addressed the Committee. She noted that there were partnership provision provisions contained in Senate and House budget and tax reconciliation bills, which has already been passed by the Senate and currently under consideration in the House. She provided Committee members with a chart outlining comparisons between these two bills and noted the industry's preference for the House bill, which does not contain a $250,000 cap on asset protection. She also noted differences between the bills with respect to inflation protection and expressed preference for the House bill's approach, which does not specify a specific percentage.

Sen. Leavell asked whether enabling legislation would be needed in the states. Ms. Mamarella replied that this would not be the case because the federal statute will allow the changes to proceed as a Medicaid plan amendment.

John Gerni of the ACLI next addressed the Committee. He noted that differences between the House and Senate bills still needed to be worked out and indicated that the ACLI preferred the House bill.

PRINCIPLES-BASED APPROACH FOR LIFE INSURANCE RESERVES

Scott Harrison of the Affordable Life Insurance Alliance (AFIA) addressed the Committee. He referred members to a handout discussing the subject of principles-based reserving and what the NAIC's reform plan involves. He discussed the tendency for reserves to be higher than necessary for many policies on an economic basis and the development of principles-based reserving to correct this problem and noted the NAIC's efforts to begin working on a principles-based reserving system to replace the current formulae system. He noted that consumers would benefit because the cost of excessive reserving is passed on through higher premiums. Mr. Harrison also cited benefits to company solvency through principles-based reserving, citing as an example the manner in which the emergence of bird flu could change the risk environment. He noted that the new system could result in either increased or decreased reserving requirements.

Mr. Harrison updated Committee members on the status of reform efforts. He indicated that the NAIC and industry trade associations, including the ACLI and the American Academy of Actuaries, have been studying the subject for about one year. He indicated that most components of this proposed reform will involve regulatory changes but that legislation modifying states' standard valuation laws would also be necessary.

Mr. Ferguson of the ACLI commented that the subject of principles-based reserving was at first extraordinarily controversial among the ACLI membership and he commended North Dakota Commissioner Poolman for bringing the parties together through the NAIC to approach a consensus.

ISSUES RELATING TO ANNUITIES, INCLUDING SUITABILITY

Mr. Gerni of ACLI addressed the Committee. He provided background information to members on recent developments concerning the sale of annuities and informed Committee members that, to date, eight states have adopted model suitability legislation regarding the sale of annuities to senior citizens. With respect to constituent complaints, he also referred members to the NAIC disclosure guide as a resource for assistance.

Rep. Eiland asked whether the ACLI had a specific recommendation to its members with respect to the sale of annuities or life insurance to seniors. Mr. Gerni replied that the ACLI was supportive of both the seniors annuity transaction model and the NAIC's disclosure efforts.

Scott Cipinko, representing the Life Insurers Council (LIC), told Committee members that LIC members had worked very hard on the NAIC model and recommended support for the legislation.

Wesley Bissett of the Independent Insurance Agents & Brokers of America (IIABA) next addressed the Committee. He discussed concerns held by the IIABA regarding requirements to be applied to independent insurance agencies, specifically the lack of a definition within the model of what constitutes an independent agency. He suggested this concern should be clarified.

Rep. Eiland asked where in the model such clarification should be located. Mr. Bissett made reference to bulleted points on the second page of the summary referencing independent agents and offered to submit the same comments his association offered to the NAIC. Rep. Eiland further inquired whether under the model the company had any responsibility for the unsuited sale of an annuity to a senior or whether responsibility was solely with the agent. Mr. Bissett suggested that it may be dependent on what steps were taken by the insurer at the point of sale. He said that the insurer would have obligations under the act for actions taken by the agent. Rep. Eiland relayed a story about a company suggesting that it was the agent's sole responsibility to determine suitability in the case of an annuity sold to an 89 year old woman in his legislative district.

North Dakota Insurance Commissioner James Poolman, responding to Rep. Eiland's prior comment, noted that the NAIC model allows a state's Insurance Department to examine companies and/or agents.

LIFE INDUSTRY'S TASK FORCE FOR THE FUTURE

William Anderson of the National Association of Insurance and Financial Advisors (NAIFA) addressed the Committee. He discussed the efforts of NAIFA and many sister organizations, which formed a task force to look at trends in life insurance. He noted that over a 20 year period there had been a decline of 39 percent in the number of life insurance policies sold, declining from 17.1 million to 10.5 million policies, balanced against an increase of 13 million households with children. He further noted a decrease over the same period in the number of licensed life agents and summarized the potential consequences of these trends as identified by the task force, which included increasing consumer reliance on government support to meet the financial consequences of premature death, disability and old age, and a reduction in the availability of long-term capital to the financial markets. Mr. Anderson summarized the goals defined by this task force to be accomplished by the year 2010:

1. Increase policy sales to 15 million annually.
2. Reduce, by 10 percent, the number of households saying they need more life insurance.
3. Increase, from 11 to 15 percent, the four year retention rate of life insurance agents.

Mr. Anderson then commented on the potential negative impacts on life insurance of if recommendations of the President's Commission on Tax Reform were to be adopted, due to the proposed limitation of $10,000 on the tax-free buildup on life policies and annuities. He suggested that this proposal constitutes the biggest threat to the life insurance industry since 1913.

NCOIL RESOLUTION TO INVESTIGATE THE UNDERSERVED LIFE INSURANCE MARKET

Mr. Ferguson of the ACLI addressed the Committee. He referenced a handout given to Committee members and suggested that many of Mr. Anderson's previous comments were germane to the matter at hand. He discussed the formation of an ACLI task force created to look into issues such as increasing the number of life agents and making recommendations to the NAIC and NCOIL with respect to making licensing more efficient and less costly. He suggested that, notwithstanding the enactment by most states of the NAIC's Uniform Producer Licensing Act, there were still variations among the states in producer licensing that create inefficiencies for the industry and for prospective agents.

Rep. Wald asked whether expansion in the group life market had hurt sales in the individual market. Mr. Ferguson indicated there was a lack of statistics to show group market sales as a reason for a decline in coverage in the individual market. Rep. Wald opined that his experience as a retail agent over a 40 year period suggested to him that there was in fact a connection. Mr. Ferguson indicated a willingness to research the issue further.

Rep. Patterson asked whether Mr. Ferguson was speaking only to life and health lines licensure or more broadly to other financial services. Mr. Ferguson replied that the ACLI's task force was focused only on life insurance licensing concerns. Rep. Patterson suggested looking at the underserved market as a future source of growth.

Rep. Crimm expressed a concern about the resolution, specifically who would be counted as "interested parties" for purposes of this ongoing dialog. He expressed concern about watering down the insurance license.

Rep. Seaman suggested that a problem he encountered as a practitioner was that companies, due to fears of legal concerns, demand that agents with life licenses also obtain a securities license. Mr. Ferguson suggested that the ACLI task force could examine the issue of what would trigger NASD licensing requirements.

COMMITTEE CHARGES FOR 2006

Rep. Wald proposed that, in addition to the proposed 2006 charges already distributed to the members, the Life Insurance Committee be expanded to include financial planning, as recommended by the NCOIL Articles of Organization & Bylaws Revision Committee. Upon a motion duly made and seconded, this motion was unanimously approved.

Rep. Eiland suggested that the Committee examine the issue of financial planners and what might constitute appropriate parameters therein.

Rep. Taylor moved to remove from the Committee's 2006 charges the requirement to continue to monitor long-term care issues because the subject would now be under the jurisdiction of the Health Insurance Committee. Upon a motion duly made and seconded, this motion was unanimously approved.

Upon a motion duly made and seconded, the Committee then voted unanimously to approve its 2006 charges, as modified by the prior resolutions. Rep. Taylor said they were as follows:

- Investigate and review the growing life annuities market, including efforts to regulate the suitability of annuities to consumers

- Investigate and report on issues related to life reinsurance
- Examine and report on the problem of a growing underserved life insurance market
- Examine efforts to create a principles-based approach for life insurance reserves
- Monitor the life and viatical settlements market
- Investigate issues related to licensing in financial planning and whether licensees inappropriately provide advice on accounting and taxes

LIFE AND VIATICAL SETTLEMENTS MARKET

Doug Head of ACE-INA addressed the Committee. He indicated that due to a lack of basic data he was unable to deliver a substantive report at this time. He did indicate, however, that many states had made advances on viatical and life settlement legislation and that in every case he was aware of, states had constructed statutes patterned on the NCOIL model that allows producers to offer these products based on their producer authority, which he said was appropriate.

ADJOURNMENT

There being no further business, the Committee adjourned at 3 p.m.

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