

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS

Resolution Opposing Legislation to Create a Federal Insurance Office

Adopted by the NCOIL Executive Committee on November 22, 2009.

Sponsored by Rep. Greg Wren (AL)

WHEREAS, in response to legislation introduced by Congressman Paul Kanjorski (D-PA) in 2008 to create an Office of Insurance Information (OII) at the U.S. Department of Treasury, NCOIL has gone on record as opposing an OII; and

WHEREAS, NCOIL has asserted that an OII would serve as a first step toward an optional federal charter (OFC)—as laid out in a Treasury *Blueprint for a Modernized Financial Regulatory Structure*—and that an unaccountable OII should not be authorized to preempt state insurance laws and regulations; and

WHEREAS, Congressman Kanjorski introduced H.R. 2609 as the *Insurance Information Act of 2009* on May 21, 2009; and

WHEREAS, as introduced, H.R. 2609 would have authorized the OII to gather and analyze insurance data, coordinate federal efforts and establish federal policy on international insurance matters and preempt related inconsistent state insurance measures, among other things; and

WHEREAS, President Barack Obama unveiled the Administration's financial services regulatory reform plan on June 16, 2009, which called for the establishment of an Office of National Insurance (ONI) at the Treasury Department to identify gaps in regulation that could contribute to a systemic crisis, to steer insurers to the Federal Reserve to be regulated as new "Tier 1 Financial Holding Companies," and to assist in administering the Terrorism Risk Insurance Program; and

WHEREAS, on October 1, 2009, Congressman Kanjorski substituted his proposed OII legislation with nearly all of the Administration's proposal and renamed it H.R. 2609, the *Federal Insurance Office Act of 2009*; and

WHEREAS, the substitute amendment to H.R. 2609 moves well beyond the Committee's desire in 2008—to create an insurance information office for the federal government—to a proposed new federal insurance czar at the U.S. Treasury Department; and

WHEREAS, the latest version of H.R. 2609 would create a more powerful Federal Insurance Office (FIO) and would grant the FIO the authority to steer insurers to the Federal Reserve for "heightened regulation," and give FIO an open-ended responsibility to "perform such other related duties and authorities as may be assigned to it by the Secretary"; and

WHEREAS, on November 10, 2009, Senator Chris Dodd (D-CT) released a discussion draft of the *Restoring American Financial Stability Act of 2009*, which included a Title to create an Office of National Insurance; and

WHEREAS, Senator Dodd’s ONI draft largely resembled the substitute FIO legislation, with several changes—including a requirement that the ONI conduct a study on “how to modernize and improve” U.S. insurance regulation; and

WHEREAS, similar legislation was not introduced or debated by the Senate in 2008; and

WHEREAS, FIO and ONI legislation, unlike previous OII bills containing more state-friendly provisions, would not:

- create an Advisory Group—that included a state legislator—to the FIO;
- require the FIO to coordinate with state regulators *before* entering into an international insurance agreement;
- grant the Treasury Secretary authority to stay a preemption, or require that the Congress be given an opportunity to prevent a preemption; and

NOW THEREFORE, BE IT RESOLVED that NCOIL opposes efforts to create an OII, ONI, or FIO, and strongly opposes such provisions in the *Restoring American Financial Stability Act of 2009* and in H.R. 2609, the *Federal Insurance Office Act of 2009*; and

BE IT FURTHER RESOLVED that NCOIL:

- believes that the creation of any such insurance office will inevitably lead to federal insurance chartering;
- strongly opposes the inclusion of vast new authorities to the FIO that were not debated during previous OII bill drafts;
- believes that several of the goals behind creating an FIO could be realized by enhancing intergovernmental sharing of information and including state officials on any council or board that Congress may create to monitor financial markets for systemic risks; 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. House Committees on Financial Services and Ways and Means and U.S. Senate Committees on Banking, Housing, and Urban Affairs and Finance, and the U.S. Treasury Department.