This letter will present a brief synopsis and then a more detailed report of action taken at the National Conference of Insurance Legislators (NCOIL) Summer Meeting in Boston, Massachusetts, from July 11 through 14, 2002.

At the meeting, legislators focused on terrorism insurance coverage, genetic discrimination, international credit for reinsurance, certified aftermarket crash parts, class action reform, company licensing, insurance (credit) scoring, and financial modernization.

More than 300 state legislators, insurance regulators, and industry and media representatives attended the meeting.

SYNOPSIS

At the NCOIL Summer Meeting, legislators:

        adopted a *Resolution in Support of the Expansion of the Liability Risk Retention Act to Cover All Commercial Lines of Insurance*

        considered amendments proposed to an NCOIL Property/Casualty Insurance Modernization Act

        considered a proposed *Certified Aftermarket Crash Parts Model Act*

        considered a proposed *Model Act Regarding Use of Consumer Credit Reports in Insurance Underwriting*

        amended an NCOIL *Resolution Affirming State Authority in the Regulation of Crop Insurance*

        adopted a proposed *Company Licensing Modernization Model Act*

        considered proposed class action reform model legislation

        held a hearing on a proposed *Approved List of Reinsurers Model Act*

        held a hearing on a proposed NCOIL*Genetic Discrimination Model Act*

        participated in a general session on medical malpractice and

        participated in a general session on long-term care.

DETAILED REPORT

EXPANSION OF LIABILITY RISK RETENTION

            Legislators adopted a *Resolution in Support of the Expansion of the Liability Risk Retention Act to Cover All Commercial Lines of Insurance*on July 13, during meetings of the Task Force on Terrorism and Executive Committee.  The resolution, sponsored by Reps. Mark Young and Kathleen Keenan (VT), supports efforts to expand the federal *Liability Risk* *Retention* *Act* to include all lines of commercial property and casualty insurance, except workers’ compensation.  The changes to the federal legislation would also expand the authority of purchasing groups to purchase coverage in those lines.  The expansion would enable insurance buyers to join together to provide and acquire such coverage and thereby increase the availability and affordability of insurance.

RATE MODERNIZATION

            Legislators at the NCOIL Executive Committee meeting tabled indefinitely amendments proposed to an NCOIL *Property/Casualty Insurance Modernization Act*, originally adopted on July 13, 2001.  (During the NCOIL Spring Meeting, the Property-Casualty Insurance Committee had adopted the proposed amendments and had referred them to the Executive Committee, but, due to time, the Executive Committee had deferred its consideration until the recent July Summer Meeting.)

            If adopted, the tabled amendments would have:

        required commercial insurers to submit informational filings, adding in a drafting note that a state could disregard such a provision if it made state law more restrictive

        deleted Section 8(D), a provision that addresses public access of filed information

        allowed policyholders to cancel policies with disapproved rates without penalty and

        deleted a provision that authorized a commissioner to exempt an insurer from conflicting actions under other laws, and another that declared exclusive governance of the Act.

            The NCOIL model would establish a use-and-file rate regulatory system for personal lines of insurance; a no-file system for commercial lines; and an exemption from rate and regulatory requirements for sophisticated commercial insurance providers.

CERTIFIED AFTERMARKET CRASH PARTS

Legislators participated in a special July 11 Property-Casualty InsuranceCommittee meeting regarding a proposed *Certified Aftermarket Crash Parts Model Act*.  Discussion centered on an amendment recently introduced to the proposed model.  During a Committee meeting the next day, Rep. Craig Eiland (TX), Committee chair, established a subcommittee to address issues surrounding the proposed model act and to present a draft proposal in time for Committee consideration at the 2002 Annual Meeting in November.

Though the P-C Insurance Committee adopted the model on November 16 during the 2001 Annual Meeting, the Executive Committee later that day remitted the act to the P-C Committee, citing a need for further discussion.  A P-C Committee hearing on the proposed model during the 2002 Spring Meeting included testimony from,among others, representatives of the aftermarket crash parts industry, car companies, and the property-casualty insurance industry.The model, sponsored by Rep. Shirley Bowler (LA), would:

             provide that all certified aftermarket crash parts used to repair a motor vehicle were suitable replacement parts

             require a body shop or insurance estimate to indicate the use of certified aftermarket crash parts and to identify the parts’ manufacturers, if possible, and

             also apply to leased or financed cars.

The proposed amendment, sponsored by Rep. Bowler, would deem that insurer-guaranteed aftermarket crash parts also were suitable and would revise the proposed model’s notification provision to include notification of insurer-guaranteed parts.

INSURANCE (CREDIT) SCORING

Legislators at the Property-Casualty Insurance Committee meeting began consideration of a proposed *Model Act Regarding Use of Consumer Credit Reports in Insurance Underwriting*, sponsored by Rep. Timothy Osmond (IL).  The model act would acknowledge an insurer’s right, under the 1970 *Federal Fair Credit Reporting Act*, to use credit experience in insurance underwriting and rating.  The proposed model would, however:

           require an insurer to notify a consumer of the credit-based reasons behind an adverse underwriting action and of the appropriate contact information to appeal such an action

           prohibit an insurer from allowing an absence of credit history, or an inability to determine such history, to negatively affect an insurance score and

           apply to personal lines automobile and homeowners insurance.

            The Committee will continue its consideration of the proposed model act during the 2002 Annual Meeting.

CROP INSURANCE

                As per NCOIL bylaws, legislators reviewed an NCOIL *Resolution Affirming State Authority in the Regulation of Crop Insurance*, originally adopted on February 20, 2000. Lawmakers at the Property-Casualty Insurance and Executive Committee meetings adopted amendments that clarify NCOIL’s call on Congress to pass crop insurance reform legislation that would affirm state law regarding sale of crop insurance products.  The NCOIL resolution reaffirms state authority to regulate insurance and opposes federal legislation that would promote “rebating” or the sale of crop insurance by unlicensed agents.

COMPANY LICENSING

                Legislators at the NCOIL Executive Committee unanimously adopted a proposed *Company Licensing Modernization Model Act* referred to them by the NCOIL State-Federal Relations Committee.  The proposed model would require that all states use the current version of the National Association of Insurance Commissioners (NAIC) Uniform Certificate of Authority Application (UCAA).  The UCAA is a process designed to allow insurers to file copies of the same license application for admission in numerous states.  The model would repeal all additional state company licensing requirements and licensing forms not contained specifically in the UCAA.

CLASS ACTION REFORM

Legislators considered proposed class action reform model legislation that had been deferred from the NCOIL March 2002 Spring Meeting.  The State-Federal Relations Committee again postponed the model legislation to its November 2002 Annual Meeting in order to review and clarify model language.  The proposed model legislation intends to correct abuses in the prosecution of class actions and would apply to all regulated entities, not just insurers.  The proposed four-part model legislation would:

         provide an insurer or any other regulated entity with a rebuttable presumption that it was not liable for an alleged harmful practice if the proper regulatory authority at that time gave implicit or explicit approval

         provide that a court could abate or dismiss a class action until administrative remedies have been exhausted

         provide that a court may stay discovery  and other proceedings during a motion to dismiss class certification unless the court found the discovery necessary to preserve evidence or prevent undue prejudice and

         provide rules for appellate bonds in class actions.

            Assem. Clare Farragher (NJ), sponsor of the legislation, plans to offer a revised model that focuses on exhaustion of administrative remedies to the Committee at the November meeting.

NON-U.S. REINSURER COLLATERAL REQUIREMENTS

Legislators at an NCOIL International Insurance Issues Committee hearing received arguments for and against a proposed *Approved List of Reinsurers Model Act*.  Current state laws require all non-U.S. reinsurers to provide collateral equal to 100 percent of their gross liabilities in order for a ceding U.S. insurer to take reinsurance credit on its annual statement.  The proposal seeks to change that by allowing non-U.S. reinsurers to deposit less than 100 percent collateral if they meet certain financial solvency requirements.  The proposal would provide that non-U.S. reinsurers that meet those requirements could voluntarily apply to be included on an “approved list” of reinsurers.  Reinsurers on the approved list could fund their liabilities to U.S. cedants at a minimum of 50 percent of gross liabilities, with 30 percent for U.S. subsidiaries of non-U.S. reinsurers.  The proposal would require non-U.S. reinsurers to make detailed financial filings and submit themselves to a meaningful level of U.S. regulatory scrutiny and to the jurisdiction of U.S. courts.  The Committee will continue to examine the issue at the NCOIL Annual Meeting in November.

GENETIC DISCRIMINATION

The Life Insurance Committee held a hearing on a proposed NCOIL*Genetic Discrimination Model Act*.  The model would:

        apply to life and disability insurance

        prohibit an insurer from requesting or using genetic information with relation to issuing, renewing or canceling a policy and

        still allow an insurer to use family history when issuing policies.

The model would make specific provisions for policies in excess of $100,000.  Those provisions would allow an insurer to:

        ask the applicant if he or she had had a genetic test

        use the results of that genetic test and

        deny coverage if an applicant refused to divulge that information.

The model would also provide for the creation of a list of catastrophic diseases and related genes that insurers could use to determine risk when issuing coverage.  A listed gene has an 80 percent chance of developing into its correlating disease.  The resulting disease must have a 50 percent mortality rate.

NCOIL will take all comments into consideration and will revise the proposed model accordingly.  The Committee will discuss the issue further at the 2002 NCOIL Annual Meeting.

MEDICAL MALPRACTICE

Legislators participated in a general session entitled *Medical Malpractice and Tort Reform*.The panel discussion, moderated by Rep. Robert Godshall (PA),focused on balancing a citizen’s right to sue with the costs of litigation and on ensuring continued access to medical care.The panel featured:

           Commissioner Alice Molasky-Arman, Nevada Division of Insurance

           Leo Boyle, American Trial Lawyers Association (ATLA)

           Sherman “Tiger” Joyce, American Tort Reform Association (ATRA)

           Dr. Murray Goodman, Salem Orthopedic Surgeons, Inc., and

           Tim Morse, CNA HealthPro.

LONG-TERM CARE INSURANCE (LTCI)

Legislators participated in a general session entitled *Igniting Interest in Long-Term Care*.  The panel, moderated by Rep. Rich Golick (GA), focused on educating legislators as to the need, cost and availability of LTCI.  The panel featured:

         Janemarie Mulvey, Watson Wyatt Worldwide

         Guenther Ruch, Wisconsin Insurance Department

         Sam Morgante, GE Financial Assurance, and

         John Cutler, Federal Long-Term Care Insurance Program.

***This report is also available, as are all NCOIL resolutions, model acts, and minutes from the Summer Meeting, on the NCOIL Web site at:***[**www.ncoil.org**](http://www.ncoil.org/)***.  If you would like to receive additional information regarding any of the issues discussed above, please contact the NCOIL National Office at (518) 449-3210.***

© 2002 National Conference of Insurance Legislators