NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
FINANCIAL SERVICES & INVESTMENT PRODUCTS COMMITTEE
SAVANNAH, GEORGIA
MARCH 1, 2007
MINUTES

The National Conference of Insurance Legislators (NCOIL) Financial Services & Investment Products Committee met at the Hyatt Regency Savannah in Savannah, Georgia, on Thursday, March 1, 2007, at 3:30 p.m.

Rep. Fulton Sheen (MI), Chair of the Committee, presided.

Other members of the Committee present were:

Sen. Ruth Teichman, KS
Assem. William Barclay, NY
Sen. William J. Larkin, Jr., NY
Assem. Ivan Lafayette, NY
Rep. George Keiser, ND
Sen. Jake Corman, PA
Rep. Robert Godshall, PA
Del. Harvey Morgan, VA
Sen. Ann Cummings, VT

Other legislators present were:

Rep. Shirley Bowler, LA
Sen. Nancy Sullivan, ME
Sen. Alan Sanborn, MI
Rep. Virginia Milkey, VT

Others present were:

Susan Nolan, Nolan Associates, NCOIL Executive Director
Kevin Horan, NCOIL Director of State-Federal Affairs

MINUTES

The Committee voted unanimously to approve the minutes of its November 9, 2006, meeting in Napa Valley, California.

REPORT ON RECENT SARBANES-OXLEY ACTIVITIES

Mr. Horan reported that President Bush recently called for changes in the way the Sarbanes-Oxley Act (SOX) is enforced, acknowledging growing corporate complaints about the burden of complying with the corporate governance measure. Mr. Horan said that an increasing number of U.S.-based firms are facing rising compliance costs related to Section 404 of SOX. Mr. Horan also noted that New York City Mayor Michael Bloomberg and New York Senator Charles Schumer recently announced the conclusions of a report that warned that if U.S. financial regulation is not eased, New York could be relegated to regional market status within ten (10) years. Mr. Horan stated that the report specifically cites Section 404 as an example of over-regulation.

Neil Alldredge, representing the National Association of Mutual Insurance Companies (NAMIC), commended NCOIL for its work opposing a National Association of Insurance Commissioners (NAIC) model audit rule that would impose SOX-like requirements on non-public companies. He reported that the NAIC had finished its proposal for the rule, which he described as a scaled-back version of what the NAIC originally considered. However, he said that NAMIC still views the proposed model audit rule as more costly than beneficial. Mr. Alldredge further said that compliance will add approximately $100 million to the cost of state regulation in the first year. In closing, Mr. Alldredge reported that the NAIC would like to make the changes to the model audit rule part of their accreditation standards, something that NAMIC would oppose.

Cheye Calvo, representing the NAIC, stated that establishing corporate governance standards for all companies is important to ensure that one person cannot single-handedly make decisions that result in insolvency. Mr. Calvo also said that should the model audit rule become part of accreditation, the earliest that it would be implemented was 2011.

CONGRESSIONAL HEARING ON PREDATORY LENDING

Mr. Horan reported that the Senate Banking, Housing, and Urban Affairs Committee held a February 7 hearing to investigate whether some mortgage broker practices have led to a predatory lending environment. He said current forecasts estimate that 2.2 million families could lose their homes through foreclosure proceedings in coming years. Mr. Horan cited a recent poll of 2,000 mortgage brokers, which recognized that 43 percent make loans knowing the borrowers are unable to repay. He said it is alleged that brokers, who have no fiduciary duty to borrowers, put borrowers in loans with higher interest rates than they can afford, so that the brokers can make higher commissions, also called yield-spread premiums. Mr. Horan said that NCOIL would continue to monitor this issue and report to the Committee as events warrant.

NAIC SECURITIES VALUATION OFFICE (SVO)

David Sandberg, Vice President of the Life Practice Council for the American Academy of Actuaries (AAA), reported that at the request of the NAIC the AAA is working on a long-term solution to the classification of hybrid securities. He said that this effort is in response to a change the SVO made last year regarding the way in which it classifies hybrid securities. Mr. Sandberg reported that the AAA would be meeting with the NAIC the following week and that a report should be completed by mid-summer.

CONGRESSIONAL INVESTIGATIONS INTO TITLE INSURANCE

Mr. Calvo reported that certain insurance commissioners, individually and/or with NAIC support, are investigating problems in the title insurance marketplace that they describe as a pervasive use of illegal kickbacks. He reported that some of the concerns included title insurers providing gifts, including trips, meals, and tickets to sporting events, to real estate agents and brokers in exchange for directing business their way. Mr. Calvo stated that a homebuyer normally does not seek out a title insurer. Rather, he said, a broker, homebuilder, or real estate agent refers a buyer to a particular insurer.

Mr. Calvo commented that title insurance is more of a risk management tool than an insurance product, in that title insurance protects against a title not being clear. He stated that most of the cost for title insurance goes to investigating the title. Mr. Calvo concluded by saying that title insurance is an issue rife for state legislators' attention and that the NAIC would be happy to work with NCOIL on the subject.

Rep. Bowler inquired of Mr. Calvo if the NAIC was developing model legislation that would protect local title agents as opposed to out-of-state title agents. Mr. Calvo responded that he did not know but would contact her at a later time.

PAYDAY LENDING

Del. Morgan reported that as Chairman of the Commerce and Labor Committee in Virginia he introduced legislation several years ago to regulate the payday loan industry. He stated that as a result of the legislation there are now more than 800 payday lending establishments in his state, with more than 500,000 loans in 2006. Del. Morgan reported that the average borrower in his state borrows six (6) to eight (8) times a year and some as many as 13 times, getting into a cycle of debt many find hard to get out of. Del. Morgan stressed that he is now fighting to end payday lending in Virginia.

Del. Morgan asked the Committee not to pass a model bill, saying that to do so would imply NCOIL approval of the industry. He stated that while payday lending seems to work in some states, such as North Dakota, and while there is a demand for it, overall the risks from it outweigh any benefits.

Sen. Larkin reported that a percentage of the armed forces cannot be deployed because of debt problems, many related to payday lending. He said NCOIL should not help the payday lending industry grow by passing a model.

Rep. Sheen noted that payday lending serves a need. He stated that sometimes people need money to carry them through to their next paychecks and that banks and credit unions are not helping them. Sen. Corman agreed and said that payday lending is something he would never recommend to anyone but that he would never vote to ban either. Rep. Keiser also concurred and said such loans must be properly regulated.

Del. Morgan said that he applauded an NCOIL payday loan subcommittee, which worked last year to identify issues that might be suitable for a draft NCOIL payday lending model act. He moved that NCOIL make available to states the recommendations of the Subcommittee but not go forward with a model bill.

The Committee voted via voice vote to approve Del. Morgan's motion and to continue to monitor the issue and take action as future events may warrant.

ADJOURNMENT

There being no further business, the meeting adjourned at 4:45 p.m.

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