

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
NCOIL-NAIC DIALOGUE
PHILADELPHIA, PENNSYLVANIA
JULY 10, 2009
MINUTES

The National Conference of Insurance Legislators (NCOIL) NCOIL-NAIC Dialogue Committee met at the Marriott Downtown in Philadelphia, PA, on Friday, July 10, 2009, at 3:00 p.m.

Rep. Robert Damron of Kentucky, acting chair of the Committee, presided.

Other members of the Committee present were:

Sen. Ralph Hudgens, GA	Rep. Don Flanders, NH
Rep. George Keiser, ND	Rep. Brian Kennedy, RI
Rep. Frank Wald, ND	Rep. Charles Curtiss, TN

Other legislators present were:

Rep. Perry Thurston, FL	Sen. Jerry Klein, ND
Sen. Ruth Teichman, KS	Rep. Robert Godshall, PA
Rep. Tommy Thompson, KY	Rep. Larry Taylor, TX
Rep. Susan Westrom, KY	Sen. Joseph Minard, WV

Also in attendance were:

Susan Nolan, NCOIL Executive Director
Candace Thorson, NCOIL Deputy Executive Director
Mike Humphreys, NCOIL Director of State-Federal Relations
Jordan Estey, NCOIL Director of Legislative Affairs & Education

REGULATORY ACTIVITY RELATED TO AIG

National Association of Insurance Commissioners (NAIC) President Commissioner Roger Seigny (NH) described regulatory activities related to AIG, including creation of an AIG Credit Facility Trust with the New York Federal Reserve Board. He said that the NAIC had created an AIG Managing Task Force at its Fall 2008 Meeting to manage NAIC and state regulator activities related to AIG insurance subsidiaries. He said the Task Force was charged with coordinating ownership changes related to the sale of AIG insurance subsidiaries, among other purposes. He added that Zurich Financial Services and Farmers Insurance Group had announced plans to acquire AIG's personal auto insurance group in April and that nine states had approved the purchase on July 1, 2009.

Rep. Damron said that the AIG situation and the work of state regulators showed that states should maintain authority over insurance regulation.

MARKET CONDUCT AS AN ACCREDITATION STANDARD

NAIC Vice President Commissioner Susan Voss (IA) reported that the NAIC had assembled a Special Working Group in February to discuss a market conduct accreditation proposal. She said the Working Group would focus on procedural laws and regulations regarding market conduct authority and on substantive laws regarding state authority to regulate unfair trade practices and prompt payment of claims. She said that the Working Group should have a report and perhaps a

proposal available before 2010. Director Mary Jo Hudson (OH) expressed support for an accreditation initiative to promote uniformity and increase consumer protection.

Rep. Damron and Commissioner Voss discussed confidentiality of market conduct annual statement (MCAS) data and market conduct examination information. Rep. Damron said that industry representatives have expressed concerns regarding possible informational “fishing expeditions” by trial lawyers.

After further discussion, Rep. Kennedy urged legislators to introduce an NCOIL *Market Conduct Surveillance Model Law* to promote uniformity in market conduct examinations.

Rep. Kennedy then asked for the status of a filing-fee conflict between insurance carriers and the NAIC in Michigan. Director Hudson and Eric Nordman of the NAIC said, among other things, that certain insurers were refusing to pay NAIC financial filing fees. Director Hudson noted that a small number of companies in Ohio have also opposed the filing fees.

Rep. Damron asked whether the disagreement was an NAIC or Michigan issue. Mr. Nordman said that the Michigan commissioner was asking the Michigan-domiciled companies to pay the NAIC fees that are paid by other companies throughout the nation.

NAIC DEVELOPMENT OF AN INDEPENDENT RATING AGENCY

Commissioner Sevigny said that a working group of 11 states was created last year to look at what it takes to form a Nationally Recognized Statistical Rating Organization (NRSRO) and to develop business and financial plans for such an endeavor. He said that the working group was finalizing the plans. He added that regulators want to be sure that creating an NRSRO would benefit consumers and could be self-funded.

Sen. Leavell and Rep. Keiser raised concerns regarding whether the NRSRO would compete with existing agencies, who would own and operate the NRSRO, the composition of its Board of Directors, and potential conflicts of interest, among other things. Rep. Keiser said that he could not imagine why the NAIC would underwrite the expense to create an NRSRO and not want any oversight or other involvement.

Commissioner Sevigny said that several regulators shared the concerns raised by Sen. Leavell and Rep. Keiser. Commissioner Voss said that there is no oversight of the current rating agencies and added that the NAIC was in the early stages of considering the establishment of an NRSRO.

Commissioner Sevigny said that the Securities and Exchange Commission (SEC) had expressed an interest in having a nonprofit competitor to the existing rating agencies, and he noted that some state treasurers also have a great deal of interest in the idea.

Rep. Damron disagreed with an earlier statement that NRSROs lack oversight. He said that people who subscribe to their services provide oversight. He said that if the NRSROs do not analyze credit properly, or if their ratings are consistently too high, then people who rely on the rating services to determine the valuation of bonds will no longer buy or purchase those bonds.

NAIC ECONOMIC MODELING ACTIVITY

Commissioner Sevigny reported that as part of a Solvency Modernization Initiative, the NAIC is revising its comparison of the U.S. system and Solvency II, as adopted by the European Commission. He noted that the NAIC had completed an initial technical comparison in 2008.

FEDERAL CONCERNS

Commissioner Sevigny said that the NAIC believes that insurance regulation is best left to the states and that NAIC would not support a direct federal role in the business of insurance. He reported that the NAIC plans to work with Congress and the Administration on reform and added that there is a need to address systemic risk and to improve federal insurance knowledge. Regarding financial stability regulation, he said that the NAIC supports the creation of a council of regulators with state insurance regulator participation. He said that the NAIC could support supervisory colleges comprised of functional regulators if they do not supplant state regulation.

Ethan Sonnichsen of the NAIC said that the NAIC is considering amendment language to make a carve-out for insurance more explicit in Consumer Financial Protection Agency (CFPA) legislation. He said that discussions regarding an Office of Insurance Information (OII), resolution authority to wind down non-bank financial institutions, and National Flood Insurance Program (NFIP) reauthorization will return in the fall. He added that optional federal charter (OFC) supporters have made a concerted effort to get more colleagues to co-sponsor OFC legislation, noting that four or five members have signed on in the House. He said that this year is the first time that more than two members have co-sponsored OFC legislation.

OTHER BUSINESS

Rep. Damron asked for an update on NAIC credit scoring activity. Commissioner Sevigny said that it is an active issue at the NAIC and that the NAIC has held two public hearings but has not developed a position.

Responding to a question from Rep. Curtiss regarding crop insurance activity, Commissioner Voss said that the NAIC has a Crop Insurance Subcommittee that has dialogued with the U.S. Department of Agriculture and the Risk Management Agency (RMA), among others. Rep. Wald then asked about regulatory activity related to Farm Credit Services. Commissioner Voss said that the Illinois Insurance Department took some regulatory action against Farm Credit Services and that Iowa is looking into the company. She said that she could pass along related information.

Commissioner Sevigny said that the NAIC is committed to working closer with NCOIL, the National Governors Association (NGA), and the National Conference of State Legislatures (NCSL), among others. He said that the groups all have a vested interest in preserving state regulation of insurance and providing the best consumer protections possible. Rep. Damron said that NCOIL and the NAIC share a common foe—the interruption of state legislators' and regulators' ability to ensure that insurance regulation remains at the state level. He added that it is important to have unity in the purpose that the states are trying to achieve, and he noted that while the groups will continue to have differences over certain issues, they have made great strides in recent years.

Responding to a question from Rep. Kennedy, Commissioner Sevigny said that the NAIC would reach out to each Commissioner to invite state legislators to attend the September 2009 NAIC Fall Meeting.

ADJOURNMENT

There being no further business, the meeting adjourned at 4:00 p.m.

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