

## Preserving State Insurance Regulation...

- By interacting with Congress on issues of critical importance to insurance public policy
- By educating state lawmakers on the solutions to their insurance-market crises
- By fostering relationships between state legislators
- By asserting the primacy of state insurance regulation under the McCarran-Ferguson Act of 1945

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## 2008 NCOIL: PERSPECTIVE ON PRIORITIES

By NCOIL President Rep. Brian Kennedy (RI)

Every year states face new and recurring challenges that require legislators to make sound, informed decisions regarding access to affordable healthcare, skyrocketing homeowners' premiums, suitability in financial planning, and long-term care coverage, among many other concerns.

Today, however, a threat greater than our individual states demands our renewed attention. Momentum for an optional federal charter (OFC) gained ground in 2007 as federally inclined banks and insurers as well as other large companies dedicated even more money and manpower than in previous years to encourage Congress to enact a new bifurcated insurance regulatory environment. We at NCOIL oppose an OFC. Our fight is not about protecting state legislative turf but about preserving an insurance system that provides the best opportunity for healthy and competitive markets that safeguard consumers and respond nimbly to communities in trouble. No federal mechanism could offer that level of consumer access. None.

In 2008, NCOIL will continue to work with our allies to lobby and defeat any proposed federal insurance schematic and to educate our counterparts in the U.S. House and Senate that an OFC is bad public policy. By marshalling our combined forces, NCOIL and other policymaking groups can forestall such preemptive challenges.

Our work in 2008 will extend beyond the dangers of a federal charter, though. NCOIL will further advocate for an interstate insurance compact for life and annuity products; streamlined rate-filing requirements; producer licen-

ing reciprocity if not uniformity; and targeted market conduct surveillance systems.

We will also—acting on recommendations contained in the groundbreaking Insurance Legislators Foundation (ILF) *Study on State Authority*—convene meetings of a new, select NCOIL subcommittee to consider how we can implement strategies to help us gain ground in insurance regulation, as well as regain territory we have lost. The study takes an honest, aerial view of what works well in state oversight and what needs improvement, and is an important step in helping states move ahead.

NCOIL is ready for the challenges of 2008 and welcomes the chance to do what is right for constituents. Safeguarding them means protecting our time-tested state-based insurance regulatory system.

NCOIL has the honor of welcoming Florida **Congressman Tim Mahoney** as keynote speaker at the NCOIL Spring Meeting in Washington, DC.

The Congressman will address H.R. 3355, the *Homeowners' Defense Act of 2007*—its impact on state lawmakers and ability to relieve

homeowners struggling with high insurance costs. The luncheon remarks are scheduled from 12:30 to 1:45 p.m. on Thursday, February 28.



## VIEW FROM THE HILL: PROSPECTS FOR BORN-AGAIN BILLS

One extension bill down, one to go. That sentence might have been heard among Capitol Hill insiders when President Bush signed the *Terrorism Risk Insurance Program Reauthorization and Extension Act of 2007* on December 26—just days before the Terrorism Risk Insurance Program (TRIP) would have expired. While TRIP is finally off the hot seat, members of Congress can still look forward to renewed debate over the National Flood Insurance Program (NFIP), scheduled to sunset this September. Some born-again issues, however, face a far less active fate.

Regarding the flood program, the House struck first on extension legislation, passing Rep. Maxine Waters's (D-CA) H.R. 3121, the *Flood Insurance Reform and Modernization Act*, on September 27. Like the TRIP debate, Senators are set on their own course—a path that rejects controversial House language to add optional wind insurance coverage to the financially troubled NFIP. In an almost *deja-vu*-like scene, President Bush issued a veto threat on the House bill whose expansion of the NFIP, he said, would be “fiscally irresponsible.” But the House may find more success with a new reform bill (H.R. 3959) that, though it does not extend the NFIP, revises it to require pre-1974 houses, sold for

more than \$600,000, pay actuarially sound rates. Sponsors are Reps. Barney Frank (D-MA) and Scott Garrett (R-NJ).

Election year politics tend to slow DC productivity, and 2008 will be no exception. Congress will eventually extend the NFIP, and the Senate may consider H.R. 1065, the *Nonadmitted and Reinsurance Reform Act*, to address surplus lines. Other than that, the House Subcommittee on Capital Markets, Insurance, & Government-Sponsored Enterprises can be expected to hold just a few hearings on regulatory reform, including the option of separate life and p-c OFC bills. Lawmakers could eye 2009 as an actual time for serious consideration.

Rep. John Shadegg's H.R. 4460, the *Health Care Choice Act*—which he reintroduced in late December—will see even less support than in the 109<sup>th</sup> Congress, thanks to a new Democratic-controlled House. The plan would permit health insurers to file a policy in, and be regulated by, a “primary state” and then offer that policy in a “secondary state.” Insurers would escape a secondary state's benefit mandates, issue requirements, and rating rules, leading most likely to a “regulatory race to the bottom” NCOIL strongly opposes.

Can Capitol Hill watchers expect much headway in the coming months? Not really. But some folks might find that comforting.

**Election year politics tend to slow DC productivity, and 2008 will be no exception ...Lawmakers could eye 2009 as an actual time for serious consideration [of regulatory reform proposals].**

*Many critical insurance public policy issues are scheduled for consideration at the February 27 through March 2 NCOIL Spring Meeting, including, among others:*

- optional federal charter (OFC) proposals
- State Authority Study: implementing recommendations
- long-term care partnership programs
- U.S. Financial Services Committee 2008 priorities
- state natural catastrophe funds
- interstate life insurance compact
- subprime mortgage lending and international accounting standards
- state health insurance reform and dependent health insurance status
- auto rental damage coverage
- producer licensing uniformity
- reinsurance collateral initiatives
- bond market developments

## INDIVIDUAL MARKET: TICKET TO HEALTHCARE REFORM?

Would-be reformers of the nation's ailing healthcare system are finding a new avenue for change, turning their attention to emerging opportunities in the individual insurance market.

As Census Bureau data indicates, an overwhelming majority of uninsured Americans are young, healthy, and steadily employed. Recognizing the ability of this demographic to lower health costs for all, states including Massachusetts and California have turned to individual mandates as a means of shrinking the number of uninsured. In theory, such mandates are coupled with premium subsidy programs that seek to provide assistance to uninsured who would have liked to purchase a policy but felt bound by limited financial means.

Sweeping reforms present a unique opportunity for health insurers to help shape discussions and generate growth in the individual market. In Massachusetts, for instance, insurers have offered limited-benefit policies at lower costs to attract the pre-

viously uninsured. In California, a proposal would require insurers to guaranty access to coverage, with limits on how much they could charge.

To this end, some of the country's largest health insurers have introduced extensive reform proposals. America's Health Insurance Plans (AHIP), for example, outlined a system in December that it says would help guaranty access to the individual insurance market. Under the system, states would cover costs of people with anticipated medical bills of more than twice the average, and private insurers would cover all others, capping their premiums at 150 percent of the market rate.

The trend does have its critics, however. Sen. John Kerry of Massachusetts suggested in a December *New York Times* op-ed piece that any meaningful reform should not rely on a "fatally flawed" individual insurance market. Critics argue that problems of affordability, limited risk pooling, and adverse selection limit the role that this market can play.

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## U.S. DISASTER AID FLOWS FREELY TO UNINSURED, UNDERINSURED, GAO FINDS

Between 25 and 33 percent of all federal aid related to Hurricanes Katrina, Rita, and Wilma in 2005 went to property owners without, or with insufficient, homeowners' insurance, says a new General Accountability Office (GAO) report commissioned by Rep. Spencer Bachus (R-AL), ranking member of the House Financial Services Committee. That figure, GAO says, translates into approximately \$25 billion in fed-

eral assistance.

\$15.1 billion of those funds were delivered through a Federal Emergency Management Agency (FEMA) Individuals and Households Program (IHP), which gave each applicant up to \$26,600 for property repair and replacement and for direct and indirect temporary housing expenses. \$9.9 billion came through a Housing and Urban Development (HUD) community-

*(continued on page 4)*

### SPECIAL MEETING ON LONG-TERM CARE PARTNERSHIPS

NCOIL Spring Meeting, Washington, DC  
Thursday, February 28  
2:00 to 3:00 p.m.

### SAVE THE DATE

The NCOIL  
**SPRING  
MEETING**

February 28 –  
March 2  
Washington, DC

## NCOILetter

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## U.S. DISASTER

development block grant program. That system gave money to Alabama, Florida, Louisiana, Mississippi, and Texas to help with hurricane recovery efforts.

The GAO study also identifies several public policy options to reduce federal catastrophe assistance, including, among others, mandating an “all-perils” insurance policy, federal loans or reinsurance for state catastrophe funds, and revising IRS

## ALL-NEW NCOIL FACT BOOK & ALMANAC NOW AVAILABLE

The all-new, 2008 *Insurance Legislative Fact Book & Almanac* is now available—featuring updated online and print listings of more than 4,500 public officials and agencies that regulate insurance in the U.S., Canada, and overseas.

The online Almanac allows subscribers to download and use contact information to send mass communications or individual correspondence and provides unlimited access to the data of state legislators, regulators, governors, and Congress people who address insurance issues. Online subscribers can search by state, leadership position, insurance committee membership, and/or affiliation.

The print edition is available for \$95 before March 1, \$125 thereafter. The combined print and Web-based package is \$300 prior to March 1, \$325 following. Discounts are available for bulk orders.

The Almanac—first published in 1985—is, according to *Government Finance Review*, “a wealth of information for those seeking to make, affect, or administer the laws that govern insurance markets.”

The 2008 Web-based and print editions may be ordered online at [www.ncoil.org](http://www.ncoil.org).

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tax code to allow insurers or consumers to pre-plan for catastrophic events.

Though it does not endorse any specific plan, the GAO report does speak to how each option might promote actuarially sound rates, encourage private market participation, and limit the financial burdens of taxpayers after natural catastrophes.

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