

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS (NCOIL)

**Model State Resolution in Opposition to S. 40/H.R. 3200,
the National Insurance Act of 2007**

Adopted by the NCOIL Executive Committee on March 1, 2008.

Sponsored by Rep. Brian Kennedy (RI), NCOIL President

WHEREAS, regulation, oversight, and consumer protection have traditionally and historically been powers reserved to state governments under the McCarran-Ferguson Act of 1945; and

WHEREAS, state legislatures are more responsive to the needs of their constituents and the need for insurance products and regulation to meet their state's unique market demands; and

WHEREAS, many states, including [State], have recently enacted and amended state insurance laws to modernize market regulation and provide insurers with greater ability to respond to changes in market conditions; and

WHEREAS, state legislatures, the National Conference of Insurance Legislators (NCOIL), the National Association of Insurance Commissioners (NAIC), and the National Conference of State Legislatures (NCSL) continue to address uniformity issues between states by the adoption of model laws that address market conduct, product approval, agent and company licensing, and rate deregulation; and

WHEREAS, initiatives are being contemplated by certain members of the United States Congress that has the potential to destroy the state system of insurance regulation and create an unwieldy and inaccessible federal bureaucracy—all without consumer and constituent demand; and

WHEREAS, such initiatives include S. 40/H.R. 3200—the *National Insurance Act of 2007*—proposed optional federal charter legislation that would bifurcate insurance regulation and result in a quagmire of federal and state directives that would promote ambiguity and confusion; and

WHEREAS, S. 40/H.R. 3200 would allow companies to opt out of state insurance regulatory oversight and evade important state consumer protections; and

WHEREAS, the mechanism set up under S. 40/H.R. 3200 does not, and cannot by its very nature, respond, as state regulation does, to states' individual and unique insurance markets and constituent concerns; and

WHEREAS, S. 40/H.R. 3200 has the potential to compromise state guaranty fund coverage, and employers could end up absorbing losses otherwise covered by these safety nets for businesses affected by insolvencies; and

WHEREAS, S. 40/H.R. 3200 would ultimately impose the costs of a new and needless federal bureaucracy upon businesses and the public;

WHEREAS, many state governments derive general revenue dollars from the regulation of the business of insurance, including nearly \$14 billion in premium taxes generated in 2006—of which the state of **[State]** generated **[dollar amount]**; and

WHEREAS, S. 40/H.R. 3200 does not fully guarantee state premium tax revenues for a long-term period of time and has the potential to draw premium tax revenue from the states; and

NOW, THEREFORE BE IT RESOLVED that the **[State]** Legislature joins the National Conference of Insurance Legislators in expressing its strong opposition to S. 40/H.R. 3200 and any other such federal legislation that would threaten the power of state legislatures, governors, insurance commissioners, and attorneys general to oversee, regulate, and investigate the business of insurance, and to protect consumers; and

BE IT FURTHER RESOLVED that a copy of this resolution be printed and forwarded to members of the **[State]** Congressional delegation in the United States House and Senate in Washington, DC and also to members of the United States Senate Committee on Banking, Housing and Urban Affairs and the United States House of Representatives Committee on Financial Services.