

## NCOIL Looks to Extinguish Workers' Comp Volunteer Firefighter Concerns

In its ongoing quest for workers' comp systems that are fair and cost-efficient, NCOIL has scheduled a special discussion at its July 12 through 15 Summer Meeting to assess the laws that ensure coverage for volunteer firefighters. The discussion responds to calls for updated rules by industry and others—rules first passed in the 1940s—that acknowledge the dynamics of today's firefighter industry.

Representatives of the National Council on Compensation Insurance (NCCI), National Association of Insurance Commissioners (NAIC), and p-c insur-

ers will speak before the Workers' Compensation Insurance Committee on July 12 to reform (cont. on sidebar p. 3)



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**NCOIL SUMMER  
MEETING**  
Burlington, VT  
July 12 — 15



## NCOIL REVISITS ITS UNCLAIMED PROPERTY MODEL IN JULY

In response to requests by the life industry and others, the NCOIL Life Insurance and Financial Planning Committee will hear testimony on its *Model Unclaimed Life Insurance Benefits Act* at its upcoming Summer Meeting in Burlington, Vermont. The NCOIL model, adopted in November 2011, would codify that all life insurance companies within its jurisdiction take appropriate measures to ensure timely payment of death benefits and appropriate disbursement to state unclaimed property funds.

The NCOIL model responds to and reflects recent

agreements made by a group of U.S. insurance regulators with large life insurance companies like MetLife, Prudential, and John Hancock. Through statute, the model sets up a thorough process for disbursement of death benefits, requiring insurers to match policyholders' names with the U.S. Social Security Death Master File (DMF), as is done with annuities, and establishing reporting regimes to state insurance departments and unclaimed property administrators.

Requests for revisitation of the model, which will be considered by the Committee on July 12 through 14, relate mainly to the frequency of the model's mandated insurer use of the DMF. (cont. on sidebar page 2)

## NCOIL TO WEIGH IMPACTS OF SUPREME COURT HEALTHCARE RULING

On the heels of a Supreme Court ruling that could up-end federal healthcare reform, legislators at the Vermont NCOIL Summer Meeting will look on July 13 at what the decision means for state implementation, consumers, and insurance markets.

The symposium, entitled *Healthcare Reform: What Hurdles Lie Ahead?*, will look at the Justices' ruling on Affordable Care Act (ACA) constitutionality and will explore what could happen if the Court strikes down the law's controversial individual mandate and Medi-

caid expansion provisions. The session will evaluate possible state-based solutions that legislatures might consider if the individual mandate is found to have overstepped constitutional bounds, including a single-payer approach.

Speakers at the symposium, slated for 12:30 to 3:00 p.m., are expected to represent the U.S. Department of Health & Human Services (HHS), state Medicaid programs, and a state legislative and small business perspective. Families USA and (cont. on page 4)

## NCOIL Revisits...

(cont. from page 1)

Insurers urge that NCOIL review its call for **quarterly matches** of policyholder names with the full DMF—purported to hold over 84 million names—citing costs and administrative burdens, particularly for smaller insurers. Other issues in question include exempting **credit life and preneed funeral contracts**; insurer conduct language relating to group life; and clarifying a restriction of fees to insureds.

Specifically, the model—already **adopted in Kentucky, Alabama, and Maryland**—provides that insurers match DMF records, or an equally comprehensive service,



with in-force life insurance policies and retained asset accounts each quarter. It also calls for timely insurer efforts to **confirm** an insured or account holder's death, **locate any beneficiaries**, and provide claims forms and instructions. In the event that benefits go unclaimed, the model provides clear procedures for life insurers to **notify state treasury departments** and escheat the funds, per unclaimed property laws.

The NCOIL Summer Meeting—scheduled from July 12 to 15—will be held at the Hilton Burlington. ■

## POINT-COUNTERPOINT: CERTIFICATES OF INSURANCE — “INFO ONLY”?

*They may seem like straightforward one-page forms, but certificates of insurance—the documents that policyholders, such as contractors and real estate developers, use to verify insurance to third parties like employers and lenders—have generated some of the most heated NCOIL debate.*

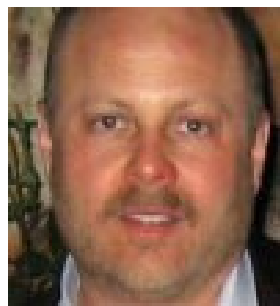
*The discussion has evolved over conference calls and special sessions and hinges on whether certificates are “information only,” as p-c agents and insurers assert, or whether they should carry more weight, as lenders urge. NCOIL so far has considered and set aside one proposed certificate of insurance model act and awaits a consensus alternative promised by industry. Legislators also—determining that a certificate model is unsuited to addressing lender concerns over how long it takes to receive an insurance policy—are developing a model that would reform state insurance binder laws.*

*As legislators prepare for an early June call and two working sessions at the July NCOIL Summer Meeting, we asked the commentators below to answer the following critical question: **Should a certificate of insurance be “info-only”?***

### Certificates of Insurance – Not a Substitute for the Insurance Policy

By Eric Goldberg

Some commercial mortgage lenders want informational certificates of commercial property insurance coverage to serve as substitutes for the insurance policy. Insurers have serious concerns with this.



It is axiomatic that the insurance policy and binder are the sole, complete embodiment of the insurance agreement. Conversely, a certificate of insurance is informational only.

Certificates—even those forms labeled as “evidence”—cannot provide coverage or amend, extend or alter the coverage afforded by the policies themselves.

It is impossible to accurately summarize complex policy provisions in an insurance certificate. Insurance policies contain precise wording because of decades of insurance case law interpreting policy provisions. Forcing insurers to summarize complex policy provisions runs the risk of creating contract ambiguities. Lenders will sue insurers over these discrepancies, and in contract litigation, ambiguities are construed against the drafter (i.e., insurers and producers). Lenders desiring a binding recitation of the terms of coverage must look to the policy or the binder.

Insurers, like all businesses, cannot

operate in an environment without contract certainty. If an insurance certificate substitutes for the policy, no one could determine what “the contract” is.

Essentially, lenders want a binding analysis of the insurance policy, and want the insurer and producer to bear the associated costs and risk. Essentially, lenders want insurers to guarantee the lender's financial risk at no cost.

Insurers and producers remain willing to work with lenders to create greater efficiencies and lower costs. However, their proposed “quick fix” of dumping costs and risks onto insurers is unacceptable.

*Mr. Goldberg is VP of the American Insurance Association (AIA) in Washington, DC. ■*





## Should evidence of insurance forms be “for information only”? Absolutely not.

By Kathy Marquardt

For decades the insurance industry provided commercial lenders with reliable evidence of insurance coverage. Today this practice is at risk by requirements that evidence of insurance be issued as a matter of “information only”.

Because of its importance in protecting their interests, lenders require evidence of insurance at closing and annually at policy renewal. Evidence allows the lender to determine that the borrower has met the insurance requirements and, in the event of a dispute, provides legally reliable evidence of the coverage. While a policy is the preferred document to serve as evidence, industry surveys suggest that policies for commercial properties are either not

delivered or not delivered timely. Evidence of Property Insurance forms served the market as an alternative to the policy for many years.

Evidence of insurance forms as distinct from binders and certificates of



insurance, provide comprehensive descriptions of the coverage and can be relied upon if a dispute arises. Until 2006, an ACORD evidence form was a mutually agreed upon and reliable evidence form between insurance and lending parties. It did

not, as opposed to certificate of insurance forms, contain a “for information only” disclaimer, clearly differentiating lenders as parties with an insurable interest in the policy.

Lenders, with insurable interests in the property, should be entitled to receive, in the absence of the insurance policy, timely, accurate and legally reliable evidence of insurance that specifies coverages, remains valid until policy delivery and is routinely delivered at closing, policy inception and each year at renewal. Mandating that all evidence forms be issued as a matter of “information only” would tear down the critical bridge that has held for decades between insurance and lending parties.

*Ms. Marquardt is Associate VP of Commercial Servicing at the Mortgage Bankers Assoc. in Wash., DC. ■*

## NCOIL Looks to... (cont. from page 1)

such as raising annual minimum payroll amounts so that insurers can **price more realistically**. Other options try to put a finer point on what it means to “volunteer,” establish appropriate risk classifications for paid versus volunteer firefighters, and allow insurers to look at fire department rosters to **see who serves and who does not**.

Items also up for Committee discussion include whether career firefighters should **subsidize costs** for volunteers and how states and municipalities might address payment for coverage, such as via creation of a **government fund** or other mechanism.



It is estimated that approximately **75 percent of U.S. firefighters** are volunteers. They are most prevalent in rural areas.

The NCOIL Committee will meet on **Thursday, July 12**, from 10:30 to 11:45 a.m. during NCOIL’s Burlington Summer Meeting. ■

## NCOIL SUMMER MEETING Burlington, Vermont July 12 through 15

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*NCOILetter* do not necessarily  
reflect NCOIL views or opinions.  
The *NCOILetter* is published by  
Nolan Associates.

### NCOIL to Weigh... (cont. from p. 1)

America's Health Insurance Plans (AHIP) also will participate.

The Supreme Court ruling is expected in June. The NCOIL Summer Meeting will take place from July 12 through 15 in Burlington, Vermont. ■



In addition to weighing fallout from the Supreme Court's Affordable Care Act ruling, a July 13 NCOIL Summer Meeting symposium will explore ways that states can prepare for an



influx of patients who cannot be denied substance abuse treatment as a result of the ACA take-all-comers requirement. The remarks of **Deputy Director David K. Mineta** of the Office of Demand Reduction will take place in light of ongoing efforts, including a 2008 federal law, to establish consistent state mental health parity standards. The July 13 presentation will be held from 12:30 to 1:00 p.m.