

NCOIL to Congress: HR 4510 Ensures Appropriate Insurer Capital Standards, Respects State Reg.

On July 29, NCOIL supported legislation that would clarify language in the Dodd-Frank Act so that certain insurers are not automatically required to follow bank-centric capital rules. In the letter to Rep. Jeb Hensarling (TX), chair of the U.S. House Financial Services Committee, NCOIL called H.R. 4510, the *Insurance Capital Standards Clarification Act*, a common-sense approach to resolving the original intent of Section 171 in Dodd-Frank and to reinforcing the success of state regulation.

H.R. 4510 would give the Federal Reserve the flexibility to apply insurer-appropriate capital standards to insurers that are under the umbrella of holding companies overseen by the Fed. As a result, the letter said, H.R. 4510 “would make clear in current law that (cont. on p. 2 sidebar)



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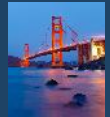
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NCOIL ANNUAL MEETING
Nov. 20 to 23
San Francisco, CA



NCOIL ADVANCES EFFORTS TO PROMOTE STATE REGULATION, URGE LEGISLATOR INPUT INTO GLOBAL DISCUSSIONS

In a series of moves to affirm the success of state insurance regulation in light of international dialogues—and to press the need for state lawmaker involvement in global discussions—NCOIL reached out in July to key federal and global entities looking to affect insurance oversight. NCOIL efforts, which included letters and resolutions, recognized the critical need for coordination and transparency among all stakeholders and expressed concerns regarding proposed global capital standards and trade negotiations, among other things.

NCOIL President Sen. Neil Breslin (NY) on July 21 wrote to top global and international officials, saying that “As we move forward in a smaller, increasingly interconnected world, we believe it is incumbent upon international agencies to recognize the importance of state-based insurance regulation and the legislative voice that NCOIL provides. The absence of a legislative voice in international discussions,” NCOIL said, “may present an inadvertent danger to effective U.S. insurance markets, which represent one-third of the global insurance industry, (cont. on page 2)

UNCLAIMED PROPERTY TASK FORCE WORKS TOWARD ENHANCING MODEL IN NOVEMBER

Following an in-person meeting on July 10 at the NCOIL Summer Meeting in Boston, the NCOIL Unclaimed Property Task Force on a July 31 conference call continued its work on proposed amendments to the *Model Unclaimed Life Insurance Benefits Act*, which had been submitted subsequent to the NCOIL Spring Meeting in Savannah.

Task Force Co-Chair Rep. George Keiser (ND) said

that the Task Force would aim to reconvene in the near future as it continues toward its goal of presenting a marked-up version of the model for consideration at the November 20 to 23 Annual Meeting in San Francisco.

During the call, legislators opted not to include in the model two proposed amendments—one that would have removed an exemption for pre-need funeral contracts and (cont. on page 3 sidebar)

NCOIL to Congress...

(cont. from p. 1)

insurers should be held to capital rules that acknowledge the inherent, critical differences between how insurers and banks operate.”

The letter noted that insurers under H.R. 4510 would still “**abide by the strict capital rules** mandated under state insurance regulation, which has protected insurance consumers and businesses for more than 150 years” and that the proposed law would not lower capital standards for any insurer.

NCOIL went on to say that support for H.R. 4510 is consistent with the organization’s efforts on behalf of state lawmakers to encourage Congress and federal and state agencies involved in international dialogues to **acknowledge the success of state regulation**.

H.R. 4510 enjoys broad support among Republicans and Democrats in the House and Senate, including Sen. Susan Collins (ME) who authored Section 171, as well as among insurance regulators and industry experts.



NCOIL Advances Efforts...

and to the consumers and businesses they serve.”

Sen. Breslin added that NCOIL is “looking today to make certain that current international endeavors are not a solution in search of a problem and do not negatively impact the successful U.S. approach.”

The July 21 letters were sent to the Dept. of Treasury, the Federal Insurance Office (FIO), Federal Reserve, Financial Stability Board (FSB), International Association of Insurance Supervisors (IAIS), and Securities and Exchange Commission (SEC).

At its July 10 to 13 Summer Meeting, the NCOIL Executive

Committee unanimously endorsed three resolutions brought forward by the NCOIL International Issues Task Force.

A *Resolution Regarding the States’ Response to International Proposals for Insurer Solvency Regulation and a Global Capital Standard (ICS)* cautioned against making U.S. insurers follow global capital rules that may erode policyholder protections. It said NCOIL will work with state insurance regulators and federal agencies to create a unified U.S. position, consistent with U.S. policies and laws.

A *Resolution Regarding Guiding Principles for U.S. and International Insurance Regulatory*

(cont. from page 1)

Discussions highlighted the transparency and accountability of the U.S. insurance system—and called for a similar approach in international dialogues, as well as for a meaningful way for state legislators to weigh in.

The *Resolution Concerning Principles of State Sovereignty in International Trade* warned against negotiations that could preempt state insurance decisions. It notes that state lawmakers are largely unheard in trade negotiations—and called for expanded and continuous legislative involvement.

More info regarding NCOIL international efforts is available at www.ncoil.org.

Good news for people who overpaid—according to the Homeowners Flood Insurance Affordability Act (HFIAA) that Congress passed in March—on their **FLOOD INSURANCE PREMIUMS**. FEMA announced on July 23, during a subcommittee hearing of the Senate Appropriations Committee, that \$100 million worth of NFIP refund checks will start going in the mail on October 1—earlier than many observers and members of Congress had anticipated.



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Legislators Intensify Consumer Legal Funding Debate, Make Final Push Toward Compromise

In a final push toward compromise on a possible consumer legal financing model law, NCOIL in the next several months will form an ad hoc working group to help determine before the November Annual Meeting what regulatory direction NCOIL might agree to take. The July 13 Property-Casualty Insurance Committee decision to create the working group also called for taking final action on the issue in November—after nearly three years of heated debate.

Rep. Matt Lehman (IN), P-C Committee chair and sponsor for discussion of one of two proposals before the Commit-

“Consumer legal financing comes down to a simple issue of fairness, and it is important... for NCOIL to offer guidance—such as strong disclosure and registration requirements...”

*— Sen. Neil Breslin (NY),
NCOIL President*

tee, said after the July 13 Summer Meeting decision that legislators had reached a point in

their discussions “when we need to make a final determination on what approach, if any, we should take to supervise an industry that looks to help consumers in need but that also raises certain questions regarding whether some form of cap on fees is appropriate.”

Sen. Neil Breslin (NY), who serves as NCOIL President as well as sponsor of the other proposed model law, asserted after the discussion that “Consumer (cont. on page 4)

Dual Rulings on ACA Subsidies Cloud Future of Healthcare Reform

Conflicting federal court rulings, issued within just hours of each other, immediately added fuel to an ongoing legal debate over an Internal Revenue Service rule permitting tax subsidies to low-income consumers to purchase health insurance on the federal exchange. The dueling opinions ensure that the legal battle will continue and raise the prospect that the Affordable Care Act (ACA) will again come before the Supreme Court.

On July 22, a three-judge panel of the District of Columbia Circuit Court of Appeals ruled two to one that the ACA “unambiguously forecloses the interpretation embodied in the IRS Rule and instead limits the a-

vailability of premium tax credits to state-established Exchanges.”

Only a few hours later a separate three-judge panel of the Richmond-based 4th Circuit Court of Appeals issued a unanimous ruling supporting the IRS, declaring that “the economic framework supporting the Act would crumble if the [tax] credits were unavailable on federal Exchanges,” and that the agency rule is a fair use of its discretion.

The Dept. of Health and Human Services estimates that around 4.6 million consumers received subsidies to purchase insurance on the federal exchange in 2014. Of

note is that the employer mandate requiring coverage is based on the number of employees receiving subsidies.

The U.S. Justice Department indicates that it intends to request a review by the full D.C. court. The federal government will continue to pay subsidies to consumers in federal exchange states until further judicial action.



Unclaimed Property...

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another that would have added an exemption for premium-paying policies. An amendment concerning insurer reporting to state regulators was a source of extensive discussion, but legislators determined to not consider the proposal on the call, **owing to the significant implications** of the proposed requirements, although acknowledged it could be considered in November.

Those actions build on significant progress made at the Summer Meeting, when the Task Force voted to retain retroactive provisions of the model but to explore allowing state insurance regulators **au-**



thority to grant certain exemptions in order to ease implementation. A proposal permitting use of the full Social Security Death Master File (DMF) once a year and updated files in the interim was also approved.

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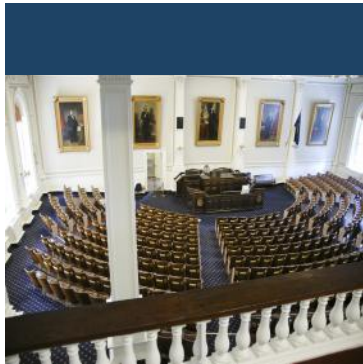
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Legislators Intensify Consumer Legal Funding Debate... (cont. from p. 3)

legal financing comes down to a simple issue of fairness, and it is important...for NCOIL to offer guidance—such as strong disclosure and registration requirements—to states on how best to regulate an industry that does much good for plaintiffs in need of financial assistance.” He said he looked forward to fruitful deliberations in the months to come.

As Committee chair, Rep. Lehman will appoint the working group. It will be comprised of people who support imposing caps on the industry and people who oppose caps.

The two draft models now on the table take different approaches. Rep. Lehman’s proposed *Model Consumer Lawsuit Lending Alignment Bill* would

regulate consumer legal financing as a loan. Sen. Breslin’s proposed *Civil Justice Funding Model Act*, however, would establish that such transactions are not loans, as well as would require certain disclosures and other things.

NCOIL OPIOID BEST PRACTICES

NCOIL at its Boston Summer Meeting expanded the NCOIL *Best Practices to Address Opioid Abuse, Misuse & Diversion* to address privacy and *prescription drug monitoring programs* (PDMPs), neonatal *abstinence syndrome* (NAS) and addiction during pregnancy, and environmental/location issues related to drug safe disposal/*take-back programs*. The expanded *Best Practices* are available at www.ncoil.org.