

Unclaimed Property Task Force Forges Ahead as Courts, NAIC Weigh in

As the November 19 to 23 NCOIL Annual Meeting in San Francisco approaches, the NCOIL Unclaimed Property Task Force continues work on proposed amendments to an *NCOIL Unclaimed Life Insurance Benefits Act*. A conference call was scheduled for September 2, during which the Task Force reviewed model language relating to retroactivity in the wake of another Kentucky court decision, among other enhancements reflecting the current climate.

Rep. George Keiser (ND), Co-Chair of the Task Force, stated that “Based on the ruling in Kentucky, we plan to review relevant sections and work to clarify model language so as to reflect the model’s original intent, which is that all policies, looking back and going forward (cont., p. 2 sidebar)



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NCOIL ANNUAL MEETING
November 19 to 23
San Francisco, CA



International Issues Task Force to Reconvene in November Amid Critical Debates

As the IAIS contemplates closing critical meetings and state insurance legislators and commissioners stress support for state-based regulation and its accompanying transparency and due process, the NCOIL International Issues Task Force will build on action taken at the NCOIL Summer Meeting when it convenes on November 20 in San Francisco. At the Summer Meeting in Boston, the Task Force approved three resolutions laying out NCOIL positions on international capital stan-

dards, coordination and transparency, and international trade agreements.

NCOIL President Sen. Neil Breslin (NY), Chair of the Task Force, said that “International bodies continue to move toward capital standards and regulations that will have an enormous impact on the state-based system. We are not going to become complacent about this. We are going to keep working to make sure (cont. on page 4)

Expanded FIO Advisory Group Holds First Meeting, NCOIL Congratulates Rep. Keiser as First Legislative Member

As the newly expanded Federal Advisory Committee on Insurance (FACI) sat down in August to its inaugural meeting in D.C., NCOIL congratulated Rep. George Keiser on his appointment as the first legislative voice on the advisory group. The selection of Rep. Keiser, who joined FACI in his capacity as a North Dakota state legislator, is in line with NCOIL’s long-standing belief that legislative membership is critical as FACI deliberates and offers guidance to the Dodd-Frank–created Federal Insurance Office (FIO).

“NCOIL has long believed and urged federal offi-

cial to recognize,” said NCOIL President Sen. Neil Breslin (NY), “that state legislators, who enact insurance laws in this country, have a unique and vital perspective to offer as FACI counsels the FIO on issues regarding, for instance, the availability and affordability of insurance. The need for a legislative voice is perhaps even more critical now—in light of overseas dialogues that could threaten state regulation (cont., p. 3 sidebar)



Unclaimed Property Task Force ...

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are subject to DMF search requirements.”

On August 15, the Kentucky Court of Appeals overturned a lower court decision upholding certain provisions of the state’s version of the NCOIL model. The appeals court ruled that the language of the statute “does not provide for retroactive application, nor can it be construed to apply to insurance policies which were in force as of its effective date.” The case, *United Insurance Company of America v. Commonwealth Department of Insurance*, comes over a year after the Franklin Circuit Court decision.

The National Association of Insurance Commissioners (NAIC) is weighing action of its own through an Unclaimed Property Working Group, initially formed on March 13. During an August 16 meeting at the NAIC Summer Meeting in Louisville, the Working Group discussed potential paths forward, including possible model law development. In addition, Rep. Keiser asked for regulator input on draft NCOIL model language concerning commissioner authority to grant certain exemptions from search requirements.

NCOIL to Explore Successes, Struggles as ACA Exchanges Reach First Anniversary

As Affordable Care Act (ACA) exchanges enter their second year, at a November 22 special session in conjunction with its Annual Meeting NCOIL will continue to apprise state lawmakers of ACA impacts and ongoing issues and concerns.

The session, entitled *PPACA Exchange Anniversary: What’s Working and What Isn’t*, will delve into questions of enrollment, technical issues with the state exchange websites, and healthcare premiums, among others. NCOIL is asking representatives of the California, Idaho, and Colorado exchanges to look back and give their perspectives on year one and look forward to year two to offer possible future scenarios.

The first open enrollment period—which ran from October 1, 2013 to March 31, 2014—witnessed a number of highs

and lows. Connecticut was one state, along with others like California and Kentucky, that boasted successes in 2014, meeting or exceeding enrollment expectations. An August 5 Gallup poll found that those three were among the ten states with the largest reductions in their uninsured rates.

In contrast, state-based exchanges in Oregon and Nevada have experienced serious technical challenges with their websites. The two recently announced plans to utilize Health-

care.gov for 2014 and 2015.



The federal exchange website, HealthCare.gov, had its own well-publicized issues in October 2013, with challenges to website access and registrations. The U.S. Department of Health and Human Resources (HHS) announced on August 26 that Connecticut exchange director Kevin Counihan would lead the Healthcare.gov team going forward.

NCOIL Annual Meeting: Issues to Watch

Among other items, legislators in San Francisco will explore:

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|------------------------|-------------------------------------|
| ACA impacts | International Issues Task Force |
| CFPB issues | market conduct/accreditation |
| consumer legal funding | Medicaid interception of payments |
| cyber-security | NAIC regulation of captives |
| FIO and FACI | pension de-risking oversight |
| flood insurance | professional employer org.s (PEOs) |
| healthcare exchanges | terrorism insurance reauthorization |
| IAIS transparency | Unclaimed Property Task Force |
| insurance scoring | vehicle ridesharing regulation |



Take a ride to the NCOIL ANNUAL MEETING!

Join us in SAN FRANCISCO to explore solutions to the state, federal, and global challenges facing your state.

November 19 to 23, 2014
Grand Hyatt in Union Square

Register today at www.ncoil.org for low rates, room in host hotel!

* full tentative agenda now online *

NCOIL to Examine Pros, Cons of Ridesharing Regulation

NCOIL legislators at their November Annual Meeting in San Francisco—the home of ridesharing heavyweights Uber and Lyft—will take a hard look at pros, cons, and potential regulation of the controversial but increasingly

popular network transportation industry. The Saturday, November 22, session entitled *Ridesharing Services:*

Driving into Controversy, will kick off NCOIL discussions likely to extend into 2015.

The November 22 event will analyze whether existing regulation is sufficient to address the unique issues raised by ridesharing—such as how much liability should personal versus commercial insurance cover? Who's responsible when a driver is on duty but without a

passenger? Should ridesharing companies be required to purchase coverage for their drivers? Are there opportunities for innovative insurance products? If so, what might they look like?

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Speakers will explore what states and communities have done and the significant challenges they faced when debating what

approach to take. The session also will address what taxi and limousine drivers have to say, as well as speak to consumer and vehicle safety concerns.

Panelists may represent ridesharing companies, the insurance industry, taxi and limousine drivers, and state insurance regulation. The 10:30 to 11:45 a.m. discussion could be a starting point for further NCOIL

debate, including possible development of model legislation, next year.

On August 19, Uber Technologies CEO Travis Kalanick announced in an Uber.com blog post that the company had hired David Plouffe—former 2008 campaign chief for Barack Obama and recent senior White House advisor—to be the company's new Senior Vice President of Policy and Strategy.



Kalanick described Plouffe as a “proven field general and strategist” to manage “all global policy and political activities, communications, and Uber branding efforts.” Plouffe starts work in late September.

Court Says Florida Workers' Comp System Is Unconstitutional

In a mid-August ruling that reportedly surprised the insurance industry, a Florida 11th Circuit Court Judge, Jorge Cueto, ruled that the state's workers' compensation law is unconstitutional because—as the “exclusive remedy” for employees suffering from work-

place injuries—the benefits it provides are inadequate.

Cueto said that 2003 legislative reforms, which are credited with significantly reducing FL workers' comp costs, resulted in benefits that are an unreasonable alternative

to recourse via the tort system.

The case, *Padgett v. State of Florida* No. 11-13661 CA 25, was brought by a state government employee who sustained a shoulder injury on the job and ultimately had to retire due to complications after surgery.

Expanded FIO Advisory Group...

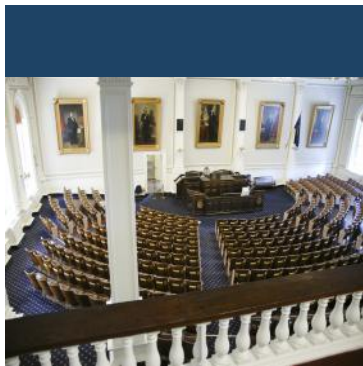
(cont. from p. 1)

—than when NCOIL first called for a legislator on FOCI.”

Expressing confidence in Rep. Keiser's expertise and commitment to state regulation, Sen. Breslin commented, “As a past NCOIL president and leader on so many NCOIL issues, Rep. Keiser's proven ability to work with others will be of great benefit to FOCI efforts. He will give voice to state lawmakers,” Sen. Breslin said, “who have a day-to-day understanding of what's happening in their states and communities.”

The August 7 FOCI meeting at the U.S. Treasury building addressed primarily organizational issues. Members suggested areas of interest for FOCI subcommittees—including capital standards, captives and life insurer reserving, cyber-liability, long-term care, natural catastrophe concerns, SIFI designations, and transparency, among other items. The next in-person FOCI meeting is slated for Thursday, Nov. 6.

FOCI, which had 15 members when created in 2011, now has 21, including Rep. Keiser, who serve two-year terms. Eight are state insurance regulators, nine hail from the insurance industry, two are consumer advocates, and one is an academic.



NCOILetter

Susan F. Nolan, Publisher/Editor
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Eric Ewing, Associate Editor

Simone Smith, Operations Coord.
Robin Mochrie, Fin. Coordinator

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International Issues Task Force...

that states are being heard during these critical times. I think the Annual Meeting is an opportunity to continue the great work we've done thus far."

The Task Force also will consider, among other things, NCOIL outreach to Congress on international insurance matters, transparency at the International Association of Insurance Supervisors (IAIS), and the ramifications of an ongoing Financial Sector Assessment Program (FSAP) review of states.

Another key consideration for the Task Force at the November 19 to 23 Annual Meeting will be development of a legislative "toolkit" to provide background and support to state legislators as they

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make their case to federal and international representatives.

LEGISLATORS: Looking to Learn More About Insurance Fundamentals?

Join colleagues from across the country on Wednesday, Nov. 19—the day before the NCOIL Annual Meeting—from 11:00 a.m. to 4:00 p.m. for *Insurance Fundamentals for Policymakers 101*, presented free of charge by the Griffith Foundation for Insurance Education. Space limited; **Griffith covers one night in NCOIL room block, up to \$500 in expenses**, per Griffith requirements. Info/registration at www.griffithfoundation.org/insurance101.