

## Legislators to Address Need for Volunteer Firefighter Reforms

On November 15, the NCOIL Workers' Compensation Insurance Committee will consider specific ways to reform 1940s-era coverage laws for volunteer firefighters. Previously hearing interested-party concerns over unfair subsidies and insufficient rates, the Committee will take a targeted look at Louisiana, Vermont, and West Virginia approaches—as possible options for NCOIL action. The Committee will convene from 10:30 to 11:45 a.m. during the NCOIL Annual Meeting in Point Clear, AL.

Chief Butch Browning, Louisiana's State Fire Marshal, will overview the 2009 reforms that use an already-existing "two percent fund"—that is, a mechanism funded with a two percent assessment on all fire insurance premiums—to help pay for volunteer firefighter coverage. *(cont. page 2)*



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**NCOIL ANNUAL MEETING**  
Point Clear, AL  
November 15 – 18



## NCOIL TO EXAMINE TITLE INSURANCE CONCERNS, LAY PLAN FOR 2013

Legislators on NCOIL's high-profile Property-Casualty Insurance Committee are taking their first step toward investigating regulation of the controversial title insurance industry. On Friday, November 16, during the NCOIL Annual Meeting, the Committee will hold a special, extended discussion to explore what title insurance is, who it really benefits, and whether premiums are too high. The dialogue could help direct Committee action in 2013.

Participants in the 30-minute event will include Justin Ailes, Vice President of Government &

Regulatory Affairs with the American Land Title Association (ALTA); a regulator NAIC representative; and a consumer advocate TBA. The panel will feature interactive Q&A and rebuttal and respond to a ground swell of interest among NCOIL legislators, among others, who are paying keen attention to homeowners' costs in today's turbulent real estate market.

The Committee then will vote on a proposed 2013 charge—to investigate title insurance concerns and take a position as appropriate—following the discussion. *(cont. on page 4)*

## NCOIL TO ANALYZE GLOBAL INSURANCE EFFORTS, IMPACTS ON U.S.

On November 16, NCOIL legislators committed to preserving state regulation will take a hard look at global initiatives that could have profound—and, many say, troubling—impacts on state oversight. The NCOIL International Insurance Issues Committee in Point Clear, Alabama, will weigh the repercussions of non-



U.S. efforts to gauge systemic risk, as well as attempts to mandate higher capital requirements and to establish a sweeping, multi-national regulatory regime,

among other things. Discussion will take place during the November 15 to 18 NCOIL Annual Meeting.

On the agenda is review of how U.S. federal regulators are undertaking a major overhaul in bank capital rules. Seeking to implement Basel III—an attempt at uniform standards for global banks—U.S. regulators are developing a one-size-fits-all approach for every bank in this country, including small community institutions. According to some in Congress, *(cont. on page 2)*

## NCOIL to Analyze...

(cont. from page 1)

to state banking regulators, and to others, these rules seriously threaten local markets.

The Committee will look at current International Association of Insurance Supervisor (IAIS) efforts to decide what insurers are **globally systemically important** (a.k.a., G-SIIs). The IAIS—a 140-nation group of insurance regulators, whose genesis was through the National Association of Insurance Commissioners (NAIC)—is working on a different track from a **U.S. Financial Stability Oversight Council (FSOC)** that's making its own, U.S.-centric designations. Large globally active insurers deemed to pose systemic trouble in both the U.S. and the world at large face two **different—and perhaps conflicting**—sets of new regulations.

Legislators at the Annual Meeting will also consider what an IAIS Common Framework (ComFrame) for **global insurance supervision** could look like—as well as what it could mean for state legislators and oversight. ComFrame aims to create a harmonious, global system for regulating internationally active insurance groups (IAIGs), but many experts **fear that its sweeping approach** could displace carefully tailored state protections.

The Committee will hear updates (cont. on sidebar p. 3)

## Consumer Financial Protection Bureau: Where Are You Now?

The Consumer Financial Protection Bureau (CFPB)—one of the many notable creations of the 2010 Dodd-Frank Act—has been awfully busy lately. Here's a sample of what the Bureau's been up to.

### Credit card practices

On Oct. 1, CFPB ordered three American Express subsidiaries to refund an estimated \$85 million to approximately 250,000 customers for illegal card practices. CFPB said American Express violated a range of consumer protection laws, including those on enrollment, payment, and debt collection.

### Credit reporting

The CFPB announced on Oct.

22 that it will begin accepting consumer complaints about their credit reports. According to a Bureau press release, the decision will "giv[e] consumers individual-level complaint assistance for the first time at the federal level." CFPB already accepts complaints regarding mortgages, bank accounts/services, consumer loans, and private student loans.

### Credit scores

On Sept. 25, the Bureau released a study that compared credit scores sold to creditors and those sold to consumers. The study found that about one out of five consumers would likely receive a meaningfully different score than would a

lender, that discrepancies may hurt consumers, and that people are unlikely to know of differences. The study analyzed scores from 200,000 credit files from each of the TransUnion, Equifax, Experian credit bureaus.

### Debt collectors

An Oct. 24 CFPB rule lets the Bureau supervise large consumer debt collectors—who report info to credit bureaus—as of Jan. 2, 2013. Any firm with more than \$10 million in annual receipts from consumer debt collection activities—amounting to 175 companies & 60 percent of the market—will be subject. CFPB will check for compliance with disclosure, dispute resolution, and other existing rules. ■

## Legislators to Address...

The Fund was created to help local government entities with fire protection.

Rep. Bill Botzow, chair of the Vermont House Committee on Insurance, will speak to Senate Bill 106, enacted earlier this year. The law amends the statutory definition of "public employment" to include volunteer firefighters and rescue and ambulance squads—while they act "in any capacity under the direction and

control of the fire department or rescue and ambulance squads." In other words, the new language puts a finer point on what it means to "volunteer."

A West Virginia representative will speak to House Bill 3271, enacted in 2011, that creates a workers' comp insurance subsidy program for volunteer firefighters. The program pays a portion of the premium increases charged to fire departments.



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In general, parties that have spoken before NCOIL—including the National Council on Compensation Insurance (NCCI) and p-c insurer representatives—have offered five options for reform: raise annual minimum payroll amounts so insurers can price more realistically; better define what "volunteer" means; create appropriate risk classifications for paid vs. volunteer firefighters; let insurers review fire dept. rosters to see who serves/who does not; and create state/local mechanisms to help pay for coverage. ■

## Medicaid Expansion: State Round-up

To expand or not to expand is one of the most controversial Affordable Care Act (ACA) decisions facing the states—and the focus of a November 16 NCOIL Annual Meeting symposium entitled *How Are States Dealing with Medicaid Expansion?* Below is a round-up of where states stand, as reported by American Health Line. States not mentioned, according to Health Line, are undecided or not commenting as of October 18.

<u>YES</u>		<u>NO</u>	<u>LIKELY NO</u>
Arkansas	Minnesota	Florida	Iowa
California	Rhode Island	Georgia	Maine
Connecticut	Vermont	Louisiana	Nebraska
Hawaii	Washington	Mississippi	Nevada
Illinois	<u>LIKELY YES</u>	South Carolina	New Jersey
Massachusetts	Kentucky	Texas	
	Oregon		



## Legislators Allocate Extra Time for Certificates of Insurance Debate

The NCOIL Annual Meeting will feature a special November 18 working session on proposed certificates of insurance model legislation that has confounded legislators for more than one year. Consideration of a draft *Certificates of Insurance Model Act (substitute)* and amendments will take place on the 18<sup>th</sup> from 8:00 to 9:00 a.m., after initial discussion during the Committee's regular, November 16 meeting.

Legislators on the Committee have expressed strong interest in wrapping up debate after holding numerous calls and special discussions, and working through several draft proposals, since July 2011.

As introduced, the proposed model would ban changes to certificate forms and would assert that they are not insurance policies and do not provide

different/extra coverage than the policy does. Controversial amendments—offered by the Mortgage Bankers Association (MBA)—(1) would give MBA-developed certificates, which are more detailed than traditional forms, the same treatment as certificates filed by groups like ACORD and ISO and (2) would exempt commercial lending transactions from the model's scope.

Lenders argue that they must be exempt from the model because it would give certificates "information only" status. Lenders say that the forms they rely on to prove coverage before closing on a loan must have more weight—in other words, "info only" is not good enough.

A third amendment reflects consensus of certain p-c industry reps and would exempt certificates, such as those for environmental liability, when federal

law specifies content/wording.

Also scheduled for review at the working session are draft changes to a 2012 NCOIL *Model Act Regarding Use of Insurance Binders as Evidence of Coverage*. The Committee developed the bill in response to lenders' need for a non-expiring document that officially proves coverage—if certificates won't fill that need. The model keeps binders in force until a policy is issued or the binder is cancelled.

The amendments, offered by MBA, would (1) require deliverance of a policy or binder no more than 30 days after certain specified events; (2) require—if a policy is not delivered by then—that an insurer deliver a binder within five days of a lender/insured request; and (3) establish that a binder is official proof of coverage in a civil action or proceeding. ■

on a Solvency II Directive—a much-delayed, **controversial attempt** to transform EU solvency regulation—and on the NAIC's Solvency Modernization Initiative (SMI). The SMI looks to enhance five key areas of U.S. insurance regulation—group solvency, capital requirements, accounting standards, reinsurance, and corporate governance—through changes to state laws/regulations that **may not need state legislator approval**.

NCOIL also will explore the status of long-running efforts to converge diverse U.S. and international accounting rules. The U.S. Financial Accounting Standards Board (FASB) and Securities and Exchange Commission (SEC) are facing growing **pressure from international bodies**—who say that the U.S. is dragging its feet and delaying vital uniformity. U.S. accounting reps, however, are **concerned about efficacy** of certain changes, and the cost of making changes for companies that are not global.

Speakers at NCOIL will include Comm. Jim Donelon (LA), incoming NAIC president; Doug Barnert of Barnert Associates; and Dave Snyder of Property-Casualty Insurers Assoc. of America. Also, Ed Stephenson, new NCOIL Dir. of State-Federal Relations, will report on an **EU-U.S.**

**Dialogue Project draft report.** ■



## NCOILetter

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Opinions expressed in the  
*NCOILetter* do not necessarily  
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The *NCOILetter* is published by  
Nolan Associates.

### NCOIL TO EXAMINE...

Title insurance, which is primarily a U.S. phenomenon, protects lenders from liability and losses related to land title disputes. Lenders require their borrowers to purchase title insurance on lenders' behalf in order to secure a loan. The borrower can buy title insurance for himself if he chooses—at an additional cost.

Critics of the title insurance market, including consumer advocates and some state regulators, say that prices are excessive compared to the risk that title insurers actually take on; that there is precious little competition; that consumers do not understand the products and do not realize that they can choose which title insurer to use; and that kickbacks and conflicts of interest are common.

Defenders of title insurance, including those in

*(cont. from p. 1)*

the industry and others, say that the coverage gives lenders and mortgagees confidence in the loan transaction; that the up-front costs to research and repair titles are significant; that competition and consumer disclosure do exist; and that title insurance is inherently different from auto coverage, for instance, because title products protect against past events, while auto insurance protects against future losses.

The Committee—in addition to title insurance—will debate at the Annual Meeting certificates of insurance/insurance binders, third-party consumer legal funding, limited lines travel insurance, and natural catastrophe public policy. The Committee also will participate in discussion regarding the National Flood Insurance Program (NFIP) and Hurricane Sandy. ■