



NCOIL: Tax Commission Project on Insurer Investment Money Raises Concerns

Lawmakers at the recent NCOIL Annual Meeting raised major concerns with draft Multistate Tax Commission (MTC) model legislation that could disturb states' vital premium tax system—and vowed to join with other state organizations, such as the National Conference of State Legislatures (NCSL), in opposition. The model, which is working its way through the MTC consideration process, relates to the MTC Non-Income Taxpayer Project and would subject insurers to state corporate income taxes—the very charges that state premium taxes were designed to replace.

According to NCOIL Past President Senator Carroll Leavell (NM), “This proposal has the potential to upset the long-standing and effective arrangement that applies state gross premium taxes to insurers in (cont. on page 2)

inside this issue

2013 NCOIL Officers Take Reins **P.2**

NCOIL Plans Look at Title Insurance, Possible Model **P.3**

NCOIL DC Meetings to Watch **P.3**

NCOIL to Consider Health Plan Disclosures **P.4**

NCOIL SPRING MEETING
Washington, DC
March 8 – 10



LEGISLATORS TO REOPEN CONTROVERSIAL INSURANCE BINDER MODEL

On March 10, the NCOIL Property-Casualty Insurance Committee will reignite debate on an NCOIL model that seeks to protect lenders from possibly high-stakes losses when borrowers have insufficient insurance coverage.

The decision to take another look at the July 2012 binder model was prompted by commercial lender representatives, who offered to withdraw their controversial changes to a related *Certificates of Insurance Model Act* if the Committee reviewed new lender amendments to make the binder language, in lenders' opinion, more effective. The offer to withdraw the amendments—which did not indi-

cate lender support for the certificates model—was made on November 18, during the Annual Meeting, and resulted in unanimous Committee adoption of the certificates proposal.

The March binder discussion will take place during the Spring Meeting in Washington, DC.

The binder model currently has a single purpose: to keep binders in force until a policy is issued or cancelled. The model was developed by the Committee in recognition that lenders sometimes wait many months to see a policy itself—but still need a document that officially proves (cont. on p. 2)

NCOIL TO OFFER SPECIAL Q&A WITH HEALTH REFORM FEDS

As legislators strive to make sense of lengthy new rules on health reform implementation, NCOIL has planned a unique Q&A forum so lawmakers can cut through the mumbo jumbo and ask common-sense questions of federal officials. The 10:00 to 11:45 a.m. session on March 9 will be a featured event at the Washington, DC, NCOIL Spring Meeting.

Entitled *Legislator Q&A with Federal Health Agency Representatives*, the forum will include participants from the Center for Consumer Information & Insurance Oversight (CCIIO), housed within the Centers for Medicare & Medicaid Services. CCIIO oversees

the implementation of many provisions in the 2010 Affordable Care Act (ACA), including those related to private health insurance.

Also anticipated are officials from the Office of Personnel Management (OPM), an agency independent of the U.S. government that manages a range of federal civil service functions. OPM has a hand in ACA implementation also and works in concert with the White House, Congress, and the U.S. Department of Health and Human Services (HHS).

Further information will be available soon. ■

New NCOIL Officers Take Reins

The NCOIL Executive Committee on November 18 approved the following slate of officers for 2012 to 2013.



PRESIDENT
Rep. Charles
Curtiss, TN



PRESIDENT-ELECT
Rep. Greg
Wren, AL



**VICE
PRESIDENT**
Sen. Neil
Breslin, NY



SECRETARY
Sen. Travis
Holdman, IN



TREASURER
Rep. Steve
Riggs, KY

SPECIAL THANKS

to outgoing President **Sen. Carroll Leavell**



Leavell
(NM) for his
tireless work
on behalf of
NCOIL

NCOIL: Tax Commission...

lieu of corporate income taxes. Gross premium taxes," he said, "are a major, major source of revenue for many states, and we cannot afford anything that might interfere with them, especially now. The industry accepts the current system as fair, and enacting this would upset that balance."

Rhode Island Rep. Brian Kennedy, also a Past NCOIL President, brought the issue to the attention of NCOIL and questioned the extent that MTC has listened to outside input.

"Insurance trade associations and the National Association of Insurance Commissioners (NAIC)," he noted, "have attempted to engage with and explain the issues to the MTC, but they have refused to listen or alter their proposal. At no point, to my knowledge, have state insurance legislators ever been consulted on the matter, even though we are the policy makers responsible for introducing legislation."

In joining with organizations such as the NCSL, NCOIL will work to ensure that the MTC hears insur-

ance legislator and regulator concerns. One significant concern is that the MTC model could trigger retaliatory taxation, a potential unique to the insurance industry. In spite of expert opinion to the contrary, the MTC claims that retaliatory taxes would be avoided if a state charges a subsidiary entity rather than an insurer.

The NCOIL State-Federal Relations Committee, convened on November 15 at the Annual Meeting, made the decision to pursue joint opposition. ■

(cont. from p. 1)

Legislators to Reopen...

a borrower's insurance before closing on a loan. Perhaps the most high-profile example of the problem was the lengthy World Trade Center coverage disputes after the September 11 terrorist attacks.

Despite the Committee's good intentions, lenders say, the model is missing some key lender protections. It does not, for instance, address the lenders' call for more detailed binder forms and for notice at policy renewal.

The draft amendments 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 or insured request; and (3) establish that a binder is official proof of coverage in a civil action or proceeding.

Development of the underlying model began in early 2012. After much debate between p-c industry and lender representatives over whether the draft certificates of insurance model should deem certificates to be "for information only," the Committee decided that a separate model act—one regarding insurance binder law—was a better way to assist lenders. The Committee reasoned that binders already substitute temporarily for policies while certificates, including those used by lenders, were inherently informational.

Long-awaited adoption of the certificates model was 18 months in the making. The model looks to curb fraud and misuse of forms policyholders, like contractors, use to prove insurance to third parties, like potential employers. The model bans changes to certificate forms, asserts that certificates are not insurance policies and do not provide different/extra coverage than a policy does and, among other things, exempts certificates—such as those for environmental liability—when federal law specifies content/wording.

The March 10 session on the binder changes will run from 8:00 to 9:00 a.m. The Committee plans introductory discussion at the group's regular, March 9 meeting from 12:45 to 2:00 p.m. ■

(cont. from p. 1)

NCOIL Plans Tough Look at Title Insurance, Need for Model Law

A key NCOIL committee will extend its look into title insurance cost and consumer protection issues—with an eye toward possible model legislation—when lawmakers meet at the NCOIL spring conference in Washington, DC. The Property-Casualty Insurance Committee will build on initial debate at the NCOIL Annual Meeting and will respond, in part, to concerns stemming from today's turbulent real estate market.

Speakers providing title insurer, regulatory, and consumer perspectives—among others—are anticipated. Discussion will take place during the Committee's Saturday, March 9, meeting from 12:45 to 2:00 p.m., and legislators will hone in on specific ways that NCOIL might promote a fair and effective title insurance oversight system.

Although Committee members have said that they recognize

title insurance's critical role, the nature of concerns surrounding the product warrant NCOIL investigation, lawmakers claim. Rep. Steve Riggs (KY), who chaired the Committee when it committed to further investigate the issue, explained that "Title insurance plays a necessary role in the proper functioning of real estate markets around the country. The coverage can protect both lenders and consumers and prevent much difficulty down the road. But—like all forms of insurance—it must be properly regulated."

"State laws must exist to ensure that consumers know what they're buying, know their options, and know that they're paying a fair price," Rep. Riggs stressed. "Our investigation into the effectiveness of title insurance oversight will identify any regulatory gaps."

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 the lenders' behalf in order to secure a loan. The borrower can buy title insurance for himself if he chooses, at an additional cost.

Participating in the Property-Casualty Committee's initial, Annual Meeting discussion on November 16 were Commissioner Joe Murphy (MA), who overviewed various National Association of Insurance Commissioners (NAIC) title insurance efforts; Justin Ailes of the American Land Title Insurance Association (ALTA), who outlined how title insurance works and its economic impacts; and Robert Holman representing the National Association of Independent Land Title Agents (NAILTA), who spoke to conflict-of-interest and competition concerns, among other things. ■

Meetings to Watch

The March 8 to 10 NCOIL Spring Meeting in Washington, DC, will feature special sessions and debate on dozens of state and federal issues. Below is just a taste of the spring conference line-up.

FRIDAY, MARCH 8

Life Insurance Committee
8:15 to 9:15 a.m.

Special Meeting: Opioid Abuse
9:30 to 10:30 a.m.



Health Insurance Committee
10:30 to 11:30 a.m.

International Committee
11:30 a.m. to 12:15 p.m.

Special FIO Session
1:45 to 3:15 p.m.

State-Federal Committee
3:15 to 4:15 p.m.

NCOIL-NAIC Dialogue
4:15 to 5:00 p.m.

SATURDAY, MARCH 9

Workers' Comp Committee
8:30 to 9:45 a.m.

Special Legislator Q&A with
Federal Health Agency Reps
10:00 to 11:45 a.m.

Property-Casualty Committee
12:45 to 2:00 p.m.

SUNDAY, MARCH 10

Special P-C Meeting:
Insurance Binder Model
8:00 to 9:00 a.m.

Executive Committee
9:00 to 10:00 a.m.



HOW CAN STATES RESPOND TO VAST FEDERAL EDICTS?

Join NCOIL in DC for insight into state options

NCOIL SPRING MEETING

March 8 to 10, 2013

Hyatt Regency on Capitol Hill

Sign up while rates still low!

- Register at www.ncoil.org •

WWW.NCOIL.ORG



NCOILetter

Susan F. Nolan, Publisher/Editor
Candace Thorson, Managing Editor

Simone Smith, Operations Coord.
Laurie Dingmon, Fin. Coordinator

Opinions expressed in the *NCOILetter* do not necessarily reflect NCOIL views or opinions. The *NCOILetter* is published by Nolan Associates LLC.

NCOIL TO CONSIDER HEALTH PLAN DISCLOSURE OPTIONS

After exploring concerns regarding consumers' ability to enter and exit certain health insurance plans, the NCOIL Health, Long-Term Care & Health Retirement Issues Committee will consider ways to enhance consumer protections whenever needed. Debate on possible options, with likely emphasis on effective disclosure requirements, will take place on March 8 during the NCOIL Spring Meeting in Washington, DC.

The NCOIL proposal could look to educate potentially vulnerable policyholders who find themselves in closed blocks of business (CBBs), which are plans no longer marketed or sold by health insurers. The NCOIL language could require insurers to tell consumers of their circumstances and could require notice of possible implications, such as potential rate increases, and of alternative coverage options.

NCOIL President Rep. Charles Curtiss (TN), who has driven the issue at NCOIL, welcomed the recent Annual Meeting decision to pursue the issue further. "People," he said, "need to know what they can do if they are stuck in a discontinued health plan. Very often, as the number of people in a pool shrinks, premiums rise, and consumers confronting a major illness can be left holding the bag."

The NCOIL effort would look to fill a need not entirely addressed by the 2010 *Affordable Care Act (ACA)*. According to participants in recent NCOIL discussions, gaps may exist in the ACA protections for consumers who need to buy, amend, or close out an insurance policy.

The Friday, March 8, Health Committee meeting is scheduled from 10:30 to 11:30 a.m. ■