

NCOIL Adopts Enhanced Unclaimed Property Model, Gives States Contemporary Guidance

Following the work of an NCOIL task force that since early 2014 has focused on enhancing one of NCOIL's most critical model laws, NCOIL legislators at their recent Annual Meeting unanimously adopted key updates to the *Model Unclaimed Life Insurance Benefits Act* to ensure that states have contemporary guidance. The model, originally passed in 2011 and subsequently adopted in some form by 15 states, was examined by the Unclaimed Property Task Force during special sessions at the Summer and Annual Meetings as well as during a series of pre-Annual Meeting calls.

Task Force Co-Chair Rep. Robert Damron (KY) said that "Our enhanced model reflects the current environment (cont. on page 2)



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NCOIL SPRING MEETING
Feb. 27 to March 1, 2015
Charleston, S. Carolina



NCOIL Deeply Troubled by Senate Inability to Reauthorize TRIA

On December 16, the U.S. Senate left Washington, DC, without approving critical legislation to reauthorize the Terrorism Risk Insurance Act (TRIA). NCOIL and numerous other entities had long stressed the importance of TRIA to this nation's economic stability and had made down-to-the-wire efforts to urge Senate passage of the bill, which enjoyed strong bi-partisan support, before Senators left for the year. TRIA now sunsets on December 31.

Responding to the news, NCOIL President Sen. Neil Breslin (NY) expressed NCOIL's belief that a

U.S. without TRIA could have significant ramifications. "The consequences of a nation without TRIA—as NCOIL and dozens of other entities have made clear for many years," Sen. Breslin asserted on December 17, "could be profound both in the states and on a national level, and so NCOIL is deeply troubled by the reality that TRIA now will expire as of January 1."

Noting that "terrorism in this country is a real and growing threat," Sen. Breslin said NCOIL "believes it is imperative that policymakers take necessary action to ensure that this (cont. on page 4)

NCOIL Seeks Clarity from Consumer Financial Protection Bureau (CFPB) Regarding Actions Related to Insurance

Acting on concerns that the Consumer Financial Protection Bureau (CFPB) may be overstepping its authority with regard to state insurance regulation, NCOIL sent a letter to the CFPB on December 4 seeking to open a formal dialogue with the Bureau and asking for clarity on its rationale for certain enforcement decisions. The letter was part of NCOIL's heightened effort over the last year to ensure the integrity of state regulation in light of federal and international challenges.

Noting that while state legislators and the CFPB have a mutual goal of protecting consumers from abuses and potentially harmful practices, the letter, signed by NCOIL President Sen. Neil Breslin (NY), asserted that there should be bright lines of regulatory responsibility in order to best achieve those protections. "We write today," Sen. Breslin said, "because we have concerns that certain CFPB enforcement actions may inadvertently blur those lines, and we (cont. on page 3 sidebar)

2015 NCOIL Committee Charges

At the NCOIL Annual Meeting, Committees adopted 2015 charges regarding:

FINANCIAL SERVICES

pension initiatives
CFPB activity/NCOIL dialogue
Dodd-Frank implementation
cyber-security/insurance
municipal bond market
lender-placed insurance

HEALTH

ACA implementation
budget impacts of aging,
poverty, disability, mental
health, etc.
obesity & chronic disease
balance billing

INTERNATIONAL ISSUES/ TASK FORCE

various Task Force initiatives
to protect state regulation
in light of int.'l efforts,
educate lawmakers, etc.
Financial Sector Assessment
Program (FSAP) review
EU-U.S. Dialogue Project
accounting standards

LIFE INSURANCE

unclaimed life ins. property
principle-based reserving (PBR)
captive insurers
Social Security DMF
annuities issues

PROPERTY-CASUALTY

ridesharing services
roofer contractor fraud
ins. scoring, data mining,
price optimization
flood insurance

STATE-FEDERAL RELATIONS

FIO initiatives & impacts
terrorism insurance/TRIA
surplus lines & market conduct
IIPRC progress

WORKERS' COMPENSATION

NCOIL PEO model/other issues
employer experience ratings
WC & emerging health concerns
termination of treatment
independent contractors
opioid reforms/NCOIL Best Prac.s

NCOIL Adopts Enhanced...

and will provide further guidance to states looking for an answer to their unclaimed property issues, as well as to the numerous states that had the wisdom to adopt its predecessor."

Rep. George Keiser (ND), fellow Co-Chair, added that "Though no small task, we have worked in partnership with the NAIC and our Advisory Council to strike a balance for the states, their constituents, and industry. Our updated model evidences successful compromise between differing, often opposing, perspectives, including those of

life insurers, regulators, unclaimed property officials and consumer representatives."

The newly updated model affirms that the model's provisions should apply retroactively. In addition, life insurers now must use the full Death Master File (DMF) initially and may use update files for searches thereafter. Previously, life insurers under the model had to search the full DMF twice a year.

The revised model also clarifies existing definitions, as well as adds new ones, such as "knowledge of death," "retained

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asset account," and "record keeping services." The model now includes language relating to "fuzzy logic" in DMF searches; addresses interest payable in unclaimed property; and clarifies initial unfair trade practices and effective date language.

Alabama, Georgia, Indiana, Iowa, Kentucky, Maryland, Mississippi, Montana, Nevada, New Mexico, New York, North Dakota, Rhode Island, Tennessee, and Vermont have enacted versions of the original NCOIL model and other states have been considering it in recent legislative sessions.

New NCOIL Model Law Could Help Medicaid Recoup Money

Legislators from around the nation adopted at the NCOIL Annual Meeting a model law to help states, both large and small, rein in Medicaid costs related to bodily injury claims—an approach that, based on state experience so far, could save millions of dollars.

The NCOIL *Model Act Regarding*



Medicaid Interception of Insurance Payments sets up a report-

ing process by which Medicaid departments would learn of and recoup payments made by property-casualty insurers and self-insureds to Medicaid beneficiaries. The model centers on the fact that when a person signs up for Medicaid, he or she agrees that Medicaid has the right to be reimbursed what it pays for the person's healthcare when the person also receives non-Medicaid money for the same care.

The new NCOIL model applies to bodily injury claims of \$2,000 or more and (1) creates an appeals process, (2) allows a beneficiary's representative to assert a lien for attorney's fees, (3) pro-

vides for confidentiality of data, and (4) gives immunity to the parties involved in interception of payments.

According to Rep. Brian Kennedy, an NCOIL past president and the model's sponsor, the model is an innovative way to help control some of states' most significant budgetary costs—and has returned millions of dollars to his home state of RI since it enacted a similar law in 2012. "Anything that can be done," Rep. Kennedy said after NCOIL approved the model, "particularly a commonsense approach like the Medicaid interception system, is critical."

Legislators Highlight Need for Voice in “Team USA”

In a December 22 letter to key state and federal officials, NCOIL took its latest step to ensure that state insurance legislators have a voice in international insurance discussions that can directly impact U.S. consumers and markets. The letter, sent on behalf of NCOIL by the organization’s President, Senator Neil Breslin (NY), specifically highlighted the need for NCOIL participation in a “Team USA” that also would include the NAIC, the Federal Insurance Office (FIO), and the Federal Reserve Board of Governors. Sen. Breslin’s letter was directed to Sen. Ben Nelson, NAIC CEO; FIO Director Michael McRaith; and Thomas Sullivan, Senior Advisor in the Division of Banking Supervision & Regulation at the Federal Reserve. Members of the U.S. House Committee on Financial Services and the Senate Committee on Banking, Housing, and Urban Affairs also received copies. *Below is text of the letter.*

“On behalf of the National Conference of Insurance Legislators (NCOIL), I write to express NCOIL pleasure in working with you, as suggested by Commissioner Sharon Clark at the NCOIL Annual Meeting, as a member of ‘Team USA.’ State regulation is confronting its most critical issues to date—and NCOIL agrees that state legislators, regulators, and federal officials must work together to preserve the integrity of U.S insurance markets, the sovereignty of this country’s effective state-based system, and the protection of American policyholders.

Indeed, a legislative voice will lend strength to U.S. participation in international forums, such as the International Association of Insurance Supervisors (IAIS) and the Financial Stability Board (FSB), as well as in negotiation of covered agreements. As Director McRaith and Mr. Sullivan have stressed, the decisions of international bodies are not self-executing in this country—and state legislators, represented through NCOIL, bear ultimate responsibility for enacting insurance public policy.



U.S. representatives overseas—both state and federal officials—must stand together, united in their approach and in accord on positions offered to the international community as the U.S. position. We must ensure that the influence of the U.S., whose insurance market is one-third of the global whole, is not diminished by internal disagreement and conflicting priorities. Preserving state regulation and the healthy markets it fosters

should be paramount in how Team USA responds to international initiatives. We trust that you agree.”

NCOIL Seeks Clarity from CFPB...

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hope to foster common understanding and avoid potential conflicts over regulatory policy and responsibilities.”

NCOIL expressed specific interest in discussing with the CFPB its efforts related to mortgage guaranty insurers and captive reinsurance transactions, title insurance, and non-bank auto lending. Sen. Breslin—recognizing that insurance and financial services are increasingly intertwined—also asked for clarity on CFPB efforts to resolve alleged problems at smaller banks and financial institutions.

Within weeks of receiving the letter, CFPB representatives reached out to NCOIL to advance communication and exchange information.

NCOIL sent Sen. Breslin’s letter, which was approved at the NCOIL Annual Meeting, to CFPB Director Richard Cordray and also distributed it to the Senate Committee on Banking, Housing & Urban Affairs and to the House Committee on Financial Services. NCOIL Treasurer Sen. Jason Rapert (AR), chair of the Coordination & Transparency Working Group of the NCOIL International Issues Task Force, proposed the letter for NCOIL consideration.

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The Mills House Wyndham Grand Hotel
Charleston, South Carolina

- register online at www.ncoil.org -



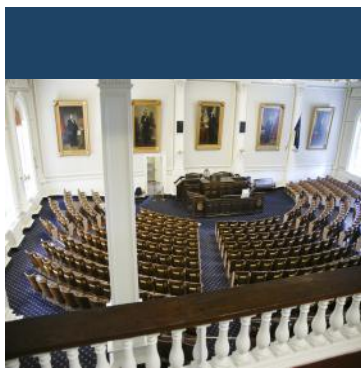
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Opinions expressed in the
NCOILetter do not necessarily
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The *NCOILetter* is published by

NCOIL Deeply Troubled ...

nation can recover if the unthinkable happens—and a federal backstop for terrorism risk is critical to ensuring that this country can. We urge Congress to swiftly pass TRIA-reauthorizing legislation upon convening next year.”

S. 2244, the *Terrorism Risk Insurance Program Reauthorization Act of 2014*, had passed the U.S. House on December 10 in a 417-7 vote and had overwhelming bi-partisan support in the Senate. The bill fell victim to opposition by retiring Sen. Tom Coburn (OK), who objected to provisions in the legislation that would have created a national insurance producer registry—known as the National Association of Registered Agents & Brokers (NARAB) II—without language to sunset the regis-

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try after two years or to make it optional for states to participate.

House and Senate leaders have stated publicly that TRIA reauthorization is a high priority for the incoming Congress, which returns to Washington, DC, on January 6.



*NCOIL President
Sen. Neil Breslin (NY)*

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