



Legislators to Probe Far-Reaching Health Reform Changes, Prospects

As sweeping healthcare changes take effect in 2011 and others loom not far ahead, NCOIL will head to the nation's capital to seek insight and share concerns during a March 3 symposium entitled *The 2010 Health Act: What's Good? What's Bad? What Meaning for States?* Slated to take place during the March 3 through 6 NCOIL Spring Meeting, the session will allow state insurance legislators to further their in-depth review of reform deadlines, state responsibilities and impacts, and what lies ahead.

Experts from leading think tanks, state insurance regulators, and industry will weigh in on far-reaching changes that include, among other things, new medical loss ratio (MLR) rules, the definition of "unreasonable" rate (cont. on p. 3)

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The Council of Insurance Agents & Brokers (CIAB)

Excess Line Association of New York (ELANY)

Property Casualty Insurers Association of America (PCI)

Risk & Insurance Management Society (RIMS)

NCOIL TO RECONVENE STATE LEADERS FOR SUMMIT ON FEDERALISM

In its latest effort to preserve and enhance state regulation, NCOIL is calling leaders of key state groups to a consensus-building *State Leaders Summit on Federalism* in a post-Dodd-Frank Act world. The March event—which will take place just blocks from the Capitol—will offer a forum for state officials to form a unified front on federal concerns, including an optional federal charter (OFC), Federal Insurance Office (FIO), and the state-federal dynamic under a Consumer Financial Protection Bureau (CFPB). The session will follow a successful inaugural summit in November on financial modernization and also will examine state surplus lines reform.

The summit will take place on Friday, March 4, from 1:00 to 2:30 p.m., in conjunction with the March 4 through 6 NCOIL Spring Meeting in Washington, DC. Invited guests will include presidents, chairs, and/or leadership of organizations comprising legislative colleagues as well as state regulators, governors, and attorneys general.

Faced with OFC supporter Tim Johnson's (D-SD) appointment as Senate Banking Committee chair and supporter Ed Royce's (R-CA) membership in the new House majority party, state leaders in March will coordinate

their positions on optional or mandatory federal charters and other preemptive federal measures. They also will mull over the jurisdictional bounds of the budding FIO, which NCOIL and others warn could be the "camel's nose under the tent".

State policy leaders will explore pros and cons of the emerging CFPB, including its impact on state regulatory responsibilities. With the controversial Bureau still in development, the Summit will focus on expanded state powers to enforce federal law and means to coordinate effective communication between state/federal governments.

Finally, the Summit will highlight state efforts to implement Dodd-Frank *Nonadmitted and Reinsurance Reform Act (NRRA)* provisions—including status of an

NCOIL, The Council of State Governments,



and National Conference of State Legislatures-endorsed *Surplus Lines Insurance Multi-State Compliance Compact* (SLIMPACT-Lite). The Compact—supported as the most suitable response to the NRRA—was a focus of the inaugural summit in November. ■

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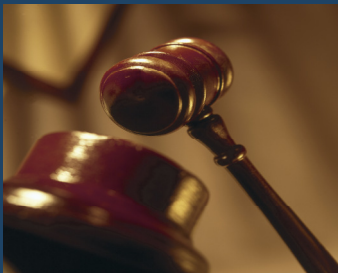
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PERSPECTIVES: WHAT HAPPENS IF STATES FAIL TO ENACT SLIMPACT-LITE?

Responding to provisions in the Dodd-Frank Wall Street Reform Act that call for modernized surplus lines regulation, NCOIL and other state legislative groups have endorsed a new Surplus Lines Insurance Multi-State Compliance Compact (known as SLIMPACT-Lite). The slimmed-down proposal—based on a long-vetted, more expansive version—heads into 2011 legislative sessions as the most suitable response to Dodd-Frank.

Under SLIMPACT-Lite, a governing commission would set out allocation formulas, uniform payment methods/reporting requirements, as well as eligibility standards and a single policyholder notice to replace the various forms used across the U.S. SLIMPACT-Lite—to streamline taxation and ensure that each state receives its fair share—would require a state to create a single surplus lines tax rate, allow states to charge their own rates, set uniform payment dates, and other things.

The writers below, representing SLIMPACT-Lite supporters, responded to the following: What happens if states fail to enact SLIMPACT-Lite?

Failure to Enact SLIMPACT-Lite: More than an Opportunity Missed

By Nicole Allen

The nonadmitted insurance market has become increasingly important in the commercial insurance business, and The Council was an early and strong supporter of the Nonadmitted and Reinsurance Reform Act (NRRRA). The law explicitly gives the authority to regulate the placement of nonadmitted insurance to the home state of the insured. The law also contemplates that states adopt uniform nationwide requirements, forms and procedures that include uniform eligibility standards – and specifically mentions a compact as a way to accomplish these goals. The development of uniform regulatory criteria will provide for a more consistent regulatory environment for all insureds and for surplus lines brokers.

By not adopting SLIMPACT-Lite, the states will not only miss an opportunity to modernize the regulatory system. They will also guarantee that brokers and their clients will continue to be mired in conflicting state interpretations. The Council is very concerned that absent the adoption of SLIMPACT-

Lite, confusion and disruption will continue in the surplus lines marketplace – a situation that benefits no one, least of all commercial insureds.

Congress is watching. And they will ask questions.

Perpetuating Dysfunctional Surplus Lines Insurance Regulation

By Kathy Doddridge

The states stand to lose a great deal if they do not adopt SLIMPACT-Lite. The receipt of surplus lines premium tax revenue would be put at risk and the opportunity to achieve regulatory uniformity among the states, granted by Congress in the Nonadmitted and Reinsurance Reform Act of 2010 (NRRRA), would be wasted.

States where risks of an insured are located will lose premium tax dollars after July 2011 unless they agree upon a method, such as that offered by SLIMPACT-Lite, for collecting and allocating premium taxes paid to the home state of an insured. With state budgets being cut, states cannot afford to lose surplus lines premium tax revenue.

A voluntary multistate agreement,



Ms. Allen is Senior VP, Strategic Resources at The Council of Insurance Agents & Brokers in D.C. ■

currently proposed by the National Association of Insurance Commissioners as an alternative to a compact, permits unilateral changes to states' regulation and collection of premium taxes for surplus lines insurance, jeopardizing the states' ability to collect those taxes and failing to solidify the uniformity directed by Congress. Such a minimalist approach would perpetuate the existing dysfunctional surplus lines regulatory system.

Avoiding uniformity will have consequences. The Federal Insurance Office is conducting a study of state insurance regulation uniformity and ignoring Congress' directive to unify state regulation increases the risk of federal intervention to resolve state inconsistencies. *(cont. on p. 4)*



Avoiding the Prospect of Greater Federal Involvement through Enactment of SLIMPACT-Lite

By David Kodama

There is a national and international movement to modernize and coordinate insurance regulation, and Congress is looking to the states to respond effectively to that call. If states fail to adopt a comprehensive solution, Congress could take action to broaden the preemptive provisions of the Nonadmitted and Reinsurance Reform Act (NRRA) legislation. This would be burdensome and costly for surplus lines markets that respond to non-standard risks with insurance needs that are hard-to-place.

PCI was pleased that the state government associations of NCOIL, NCSL, and CSG supported a constructive approach to achieve much-needed national uniformity in surplus lines regulation and to comply with the full intent of NRRA. Without specific adherence to such a standard, surplus lines markets will continue to be burdened with unnecessarily inconsistent state requirements and potential exposure to litigation to resolve conflicting regulations and authorities.

We are a long-time advocate of the NRRA and believe the "SLIMPACT-Lite" model represents a well-vetted effort to adhere to the full intent of the legislation, including the uniformity of surplus lines eligibility requirements. (cont. on p. 4)

SLIMPACT-Lite—The Alternative to Federal Insurance Regulation

By Dan Maher

The property/casualty insurance industry has been so desperate for regulatory reform that it bypassed the states to lobby two separate proposals before Congress.

Optional Federal Charter (OFC) legislation has been introduced in various iterations over several Congresses. The group that supports it, at its core, is seeking a nationwide license to sell free of rate and form regulation. The state-regulated surplus lines industry, where such freedom exists, approached Congress with a different proposal that succeeded with passage of the Nonadmitted and Reinsurance

Reform Act (NRRA). The NRRA holds great promise for modernizing surplus lines regulation but it can only fulfill that promise if the states implement the NRRA through a mechanism like SLIMPACT-Lite.

On December 15th the House sponsor of the NRRA, Dennis Moore, commented for the second time that the intent of the NRRA was "to provide a simpler, uniform tax reporting and payment process" and "a comprehensive uniform solution to the current regulatory mess by addressing the spectrum of surplus lines regulation". He closed by noting Congress should monitor full NRRA implementation closely. (cont. on p. 4)

Legislators...

(cont. from page 1)

increases, and state-based health insurance exchanges. Speakers will also surmise how a new Congress—and power shift in the House of Representatives—could affect implementation efforts and the likelihood of tort reform, association health plans (AHPs), and other items.

The March symposium will build upon approximately 16 hours of sessions

held at NCOIL Summer and Annual Meetings

in 2010. The sessions were devoted to timelines for carrying out reform and exchange basics, as well as impacts on state budgets, large and small insurers, employers, and others. ■



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Perpetuating

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SLIMPACT-Lite, endorsed by NCOIL, NCSL, and CSG, is the most viable proposal to achieve uniformity. Its form as an interstate compact would provide member states with a governance structure that ensures uniformity and that states continue to receive premium tax dollars. For these reasons, RIMS supports the adoption of SLIMPACT-Lite.

Ms. Doddridge is Director of Gov. 't Affairs for the Risk & Insurance Management Society in Washington, DC. ■

SLIMPACT-Lite

The industry, NCOIL, CSG and NCSL have lined up solidly behind SLIMPACT-Lite because it addresses such a broad spectrum of uniformity.

Absent SLIMPACT-Lite enactment, the OFC proponents may gain momentum should Congress witness a failed implementation of the NRRRA.

Avoiding

(cont. from page 3)

and to forms, procedures and other regulatory requirements applicable to nonadmitted insurance business.

PCI will continue to work closely with state legislators, regulators and the NAIC to achieve uniform standards consistent with both the spirit and the letter of the NRRRA.

Mr. Kodama is senior director of research and policy analysis for the Property Casualty Insurers Association of America in Des Plaines, Illinois. ■

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The NAIC has an alternative proposal, which has no support outside of the NAIC. It is a barebones approach that does not fulfill the NRRRA's promise. The insurance industry widely opposes the NAIC proposal.

Mr. Maher is Executive Director of the Excess Line Association of New York in New York City. ■