

Congress Wades in (Again) to Flood Program Reform

Recently, lawmakers in the U.S. House reawakened efforts to overhaul the National Flood Insurance Program (NFIP), zeroing in at a March 11 hearing on a new plan—one with significant early support—to revamp the system. The discussion draft, offered by Rep. Judy Biggert (IL), chair of the Insurance, Housing & Community Opportunity Subcommittee, awaits an April 6 markup.

The Biggert draft—which does not address the NFIP's nearly \$18 billion debt—would extend NFIP until September 30, 2016, and would eliminate program subsidies over time. The draft would allow for annual rate increases of 20 percent, up from ten; tie maximum coverage limits to the inflation rate; and allow a two-year phase-in of rates in newly designated flood zones. Under the draft, FEMA and GAO would study ways to privatize the program. *(cont. on page 2)*



inside this issue

NCOIL Takes Action at Spring Meeting **P.2**

Balance Bills **p.2**

Trucking/Courier WC **p.2**

Annuity Suitability **p.3**

Aftermarket Crash Parts **p.3**

McRaith Tapped for FIO Post **P.2**



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KENTUCKY FIRST ON SLIMPACT, NEW MEXICO CLOSE BEHIND

NCOIL Past President Rep. Robert Damron's H.B. 167 made Kentucky the first state to enact a *Surplus Lines Insurance Multi-State Compliance Compact* (SLIMPACT) after Governor Steve Beshear signed it on March 16. Less than 24 hours later, the New Mexico legislature sent NCOIL President-Elect Sen. Carroll Leavell's SLIMPACT (SB 250) to the Governor, as the two states lead the charge to enact the new interstate insurance compact.

Rep. Damron said, "The Dodd-Frank Act gave states a short period of time in which to act, but in Kentucky we were able to get it done. We look forward to broad SLIMPACT enactment...and we believe that all states

will benefit both financially and otherwise from joining the national compact."

Sen. Leavell added, "A widely enacted SLIMPACT will show Congress and the



new FIO Director that states are working to implement Dodd-Frank. While more time, as NCOIL and others have requested, would be appreciated, states have to move forward now because Dodd-Frank surplus lines provisions are slated to go live this year." *(cont. on page 3)*

NCOIL TO CONGRESS: GIVE STATES NEEDED TIME TO IMPLEMENT SURPLUS LINES REFORM

Intensifying efforts to give states more time to pursue a *Surplus Lines Insurance Multi-State Compliance Compact* (SLIMPACT), state lawmakers unanimously endorsed at the NCOIL Spring Meeting a *Resolution Urging Congress to Extend the Effective Date for Nonadmitted Insurance Provisions of the Dodd-Frank Act*.

The resolution echoed requests by NCOIL, The Council of State Governments, and the National Conference of

State Legislatures for Congress to push back the effective date on *Nonadmitted and Reinsurance Reform Act* (NRRRA) nonadmitted insurance provisions by at least one year—until July 21, 2012. Such an extension, the groups asserted, would allow states needed time to join SLIMPACT.

NCOIL President Rep. George Keiser (ND), sponsor of the resolution, said "While states have taken great strides to meet NRRRA *(cont. on page 4)*

Congress...

(cont. from page 1)

The draft would create a 15-member Technical Mapping Advisory Council to propose new mapping standards that, among other things, would look to **determine risk down to the “smallest geographic level possible”**.

FEMA, which administers the beleaguered NFIP, could accept or reject the recommendations.

Although **stakeholders generally praise the Biggert effort** as a way to financially stabilize the



NFIP, among other things, a controversial provision—supported by agents, insurers, realtors, and homebuilders—would let the NFIP offer business interruption and additional living expense coverage at risk-reflective rates. The products could not deepen NFIP debt, the bill says, and could be offered only if there's no private-market appetite.

Supporters at the March hearing said the consumer-friendly products would expand the pool of NFIP funds, promoting solvency. Critics, including Taxpayers for Common Sense, said the coverage could stifle private markets and would ultimately leave taxpayers accountable. GAO expressed concern that NFIP lacks relevant expertise.

Unlike previous bills, the **draft would not inject wind coverage** into the NFIP—an omission that should help the bill's prospects. ■

NCOIL TAKES ACTION AT DC SPRING MEETING

State legislators assembled at the NCOIL Spring Meeting made tough decisions on issues confronting the states, including the actions highlighted below. The March 4 through 6 conference drew nearly 300 legislators, regulators, federal officials, and consumer and industry representatives to our nation's capital.

Lawmakers Endorse Model on Controversial Health Balance Bills

After two years of work, NCOIL on March 6 unanimously approved a *Healthcare Balance Billing Disclosure Model Act*. State insurance legislators took action on the model—which will enhance transparency in balance billing practices across the states—after receiving extensive input from key players.

In a statement that immediately followed Executive Committee approval, NCOIL President Rep. George Keiser (ND) said, “At a time when health costs are rising, the model will require needed information about consumer health benefits and financial responsibilities and promote informed decisions. At present, consumers are often surprised to be balance billed by out-of-network providers working at an in-network facility for differences between medical charges and what insurers will reimburse.”

The model, which builds on TX and LA laws as well as other state activity, provides for pre-and post-treatment disclosures and places requirements on healthcare facilities, insurance plans, and facility-based providers. The bill also promotes accountability.

MCRAITH TAPPED FOR FIO POST

Following complaints by the NAIC and others that the Financial Stability Oversight Council (FSOC) still lacked state insurance representation, U.S. Treasury Secretary Tim Geithner, during a March 17 meeting of the FSOC, announced that Illinois Director Michael McRaith will serve as the nation's first Director of the Federal Insurance Office (FIO). The appointment comes nearly eight months after the Dodd-Frank Act established the FIO.

McRaith will remain in Illinois through May 31, the end of the state's legislative session. After arriving in

NCOIL Adopts Bill on Trucking/Courier Workers' Comp Rules

To remedy uncertainty over who should be covered by workers' comp in the trucking and courier industries, NCOIL on March 6 adopted a *Trucking & Courier Industries Workers' Compensation Model Act*. The bill will set clear rules for determining who is an independent contractor and who is an employee by creating a six-point statutory “test” related to equipment ownership, operating responsibilities/costs, compensation, control over work performed, and certification. Under the model, people who fail to meet all six standards are considered employees and subject to workers' comp protections.

NCOIL President Rep. George Keiser (ND), who sponsored the model for discussion, said, “We've heard that confusion over independent contractor and employee status is a problem in these unique industries and hope the model will eliminate uncertainty that causes major headaches for all. The model will help states ensure that businesses and state workers' compensation systems aren't unexpectedly burdened and that employees receive the benefits they deserve.”

Washington, he will have limited time before a comprehensive study on U.S. insurance regulation is due to Congress in January. The FIO is also tasked with developing federal policy on international insurance matters and making recommendations to FSOC on systemically important insurers, among other things.

As FIO Director, McRaith will serve as a nonvoting member of FSOC. ■



Kentucky...

(cont. from page 1)

NCOIL President Rep. George Keiser, who sponsored SLIMPACT legislation in North Dakota that is pending in the Senate after passing the House by 92-1-1, said, "Kentucky and New Mexico have crossed the finish line and **it is up to the rest of us to build on these early successes** and enact SLIMPACT to streamline surplus lines taxation and regulation across the country."

The NCOIL President added, "NCOIL adopted SLIMPACT last November to respond to the Dodd-Frank Act's surplus lines reforms. **Our support for SLIMPACT has never wavered.**

We continue to urge state lawmakers to move SLIMPACT forward...."

Speaking directly to state legislatures considering reform, Keiser declared that "NCOIL has not endorsed any effort to modify or revise SLIMPACT. Nor have we supported any alternative mechanism to allocate surplus lines taxes, or to otherwise delay SLIMPACT effectiveness. Any suggestion to the contrary is not correct."

SLIMPACT has been introduced in 25 percent of the country this session. Like the ND House, Senates in IN and KS have **approved SLIMPACT by a wide margins**—41-8 and 36-3, respectively. Bills also are pending in AL, CT, RI, TN, TX, and VT. ■



NCOIL Supports NAIC Suitability Model, Recommends to States

With a goal of gaining optimum protection of insurance consumers and ensuring suitable annuity sales, NCOIL this month endorsed a National Association of Insurance Commissioners (NAIC) annuity suitability model act and passed a resolution recommending the measure to states. The NCOIL Executive Committee unanimously approved the *Resolution in Support of Expanding Annuity Suitability Requirements* on March 6.

After the vote, NCOIL President Rep. George Keiser (ND) highlighted the need for state action, saying, "Now, more than ever, we feel that disclosure is paramount for consumers, who are struggling to secure their and their families' present and future financial well-being."

Keiser noted that "support for the model is another vital step in ongoing NCOIL efforts to work with key

groups of state officials to enhance state modernization...This collaborative effort will evidence once again to Congress that states are successfully regulating the business of insurance." The NCOIL action occurred just two days after leaders and staff of key state organizations discussed suitability at a State Leaders Summit on Federalism.

The NCOIL resolution calls on states to enact a 2010 version of the NAIC model, which enhances insurer and agent responsibility and accountability and authorizes state regulators to take action against unsuitable recommendations.

Legislators Fail to Reach Consensus on Aftermarket Crash Parts Model

State legislators at the NCOIL Spring Meeting failed to reach consensus on a controversial model act that would give guidance to states on the widespread use of aftermarket crash parts. On March 6, lawmakers in Washington, DC, declined to (cont. on page 4)

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deadlines, we simply need more time. Twelve months—the first six of which occurred last year as most state legislatures were out of session—is not sufficient for states to implement a nationwide system to collect and allocate nonadmitted insurance taxes.”

In a March 15 letter transmitting the resolution to Congress, Rep. Keiser called on Members to consider joining the effort to delay the NRRRA and cautioned that

Legislators

adopt a *Model Act Regarding Motor Vehicle Crash Parts and Repair*—which represents NCOIL’s fourth run at the issue—due to lingering concerns over aftermarket part quality, safety, and cost impacts, among other things.

“Anyone who’s taken their car for auto body work after an accident,” said Property-Casualty Committee Chair Rep. Chuck Kleckley (LA), “knows the process can be confusing and that giving consumers choice and disclosure

(cont. from page 1)

“Doing nothing could soon cause states to lose important tax dollars.” He added, “Legislation to help protect state revenue would be simple to craft and would receive strong support from state lawmakers.”

The NCOIL resolution was sponsored by Rep. William Botzow (VT), Sen. Mike Hall (WV), Rep. Barry Hyde (AR), Rep. Kathie Keenan (VT), Rep. Brian Kennedy (RI), Sen. Bill Larkin (NY), and Sen. James Seward (NY). ■

(cont. from page 3)

along the way is critical. Despite defeat of the model, legisla-



tors on the Committee remain committed to making sure people are given opportunities and fair notice.”

Legislators voted in a close vote against the model. ■