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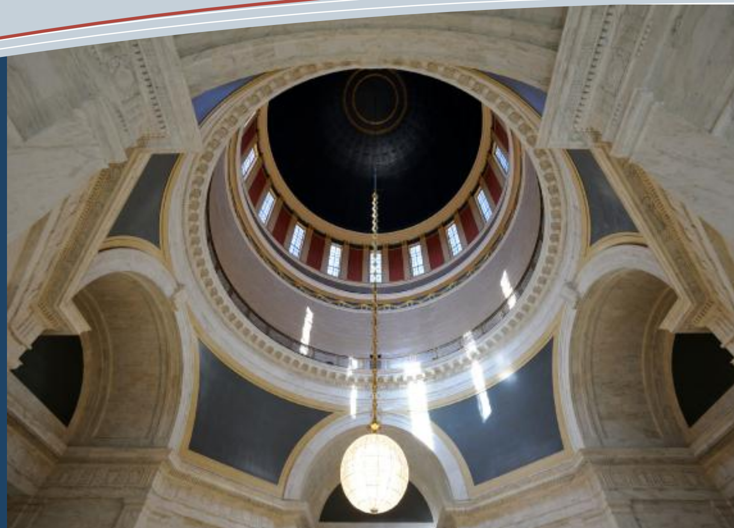
NCOILetter



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2015 NCOIL SUMMER MEETING
July 16 to 19, 2015
Indianapolis, IN

NCOIL to Explore Impacts of U.S. Supreme Court's *King v. Burwell* Ruling

NCOIL legislators on July 16 will analyze what the U.S. Supreme Court ruling in *King v. Burwell*—one of the most significant legal challenges to the Affordable Care Act (ACA)—means for the 34 states with federally run healthcare exchanges and for the millions of consumers they serve. The Summer Meeting discussion will be a featured item on the NCOIL Health, Long-Term Care & Health Retirement Issues Committee agenda, in light of the major cost and availability fallout if the Court sides with the plaintiffs.

Legal experts will offer background on *King v. Burwell* and will identify key issues at play in the Court's decision, expected in late June or early July. The Committee will look at whether—if plaintiffs win—the states with federally based exchanges will transition to

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Shelby Releases Financial Regulatory Improvement Act Draft, Calls for Sweeping Change

On May 12, the Chair of the U.S. Senate Committee on Banking, Housing, and Urban Affairs released a draft proposal that calls for sweeping changes to the U.S. system of financial regulation—including loosening of certain Dodd-Frank Act requirements—and supports greater accountability and transparency in insurance regulation.

Senator Richard Shelby (R-AL) described his discussion draft of *The Financial Regulatory Improvement Act of 2015* as "a working document intended to initiate a conversation with all members of the Committee who are interested in reaching a bipartisan agreement to improve access to credit and to reduce the level of risk in our financial system."

Bipartisanship, however, may be a tough obstacle to overcome based on the remarks of discussion draft critics. The Committee's Ranking Member, Sen. Sherrod Brown (D-OH), for instance, said after the bill's release that the text was "a sprawling industry wish list of Dodd-Frank rollbacks."

The Senate Committee marked up the 216-page discussion draft during an executive session on May 21. Below is a summary of key provisions in the discussion draft's eight titles, as introduced.

TITLE I: Regulatory Relief and Protection of Consumer Access to Credit

Includes 25 measures to, among others things, ***exempt*** financial institutions from giving annual written privacy notices, under certain conditions; ***allow*** privately insured credit unions to participate in the Federal Home Loan Bank system; ***create*** an Examination Ombudsman to field complaints from financial institutions when they are examined; ***make*** numerous Truth in Lending Act and other changes related to mortgage rates, disclosures, servicing, etc.; and *(cont. on page 2)*

CHECK OUT THE NEXT EDITION OF THE *NCOILETTER* — A SPECIAL **TRANSPORTATION NETWORK COMPANY (TNC) EDITION FEATURING COMMENTARIES** FROM CALIFORNIA INS. COMM. DAVE JONES, THE P-C INSURANCE INDUSTRY, THE TAXI & LIMO INDUSTRY, AND UBER.

NCOIL to Explore King v. Burwell...

(cont. from page 1)

state-based systems, at what will happen if they do not, and at what prospects may exist for a congressional "fix." Legislators also will consider possible responses for state legislators and the insurance industry.

Should the defendant—that is, the federal government—win, NCOIL lawmakers and experts will discuss what the decision means for future challenges to the Affordable Care Act (ACA), among other things. Is ACA now "safe" from future legal battles?

Discussion will take place during the NCOIL Committee's 2:30 to 4:00 p.m. meeting in Indianapolis.

BACKGROUND ON *KING V. BURWELL*

King v. Burwell was filed by four individuals in Virginia, which has a federally facilitated exchange. The plaintiffs say that they should not have to buy health insurance because the cost of their coverage—without an ACA premium subsidy—would exceed eight (8) percent of their estimated 2014 incomes. If coverage exceeds eight (8) percent of income, then there's no ACA tax penalty for failing to buy insurance. In other words,

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Shelby Releases Financial Regulatory Improvement Act...

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ensure that Consumer Financial Protection Bureau (CFPB) advisory committees offer recommendations that are objective and publicly available.

TITLE II: Systemically Important Bank Holding Companies

Raises threshold for automatically designating a banking holding company (BHC) as systemically important—from \$50B in total consolidated assets to \$500B; ***requires*** Federal Reserve/Financial Stability Oversight Council (FSOC) to evaluate BHCs with assets between \$50B and \$500B for possible systemic risk; ***lays out*** a disclosure process between FSOC and a BHC it's evaluating; ***sets out*** process for reevaluating a system risk designation; and other provisions.

TITLE III: Greater Transparency for the FSOC Process for Non-Bank Financial Companies

Creates a disclosure process between FSOC and a non-bank financial company that FSOC is evaluating; ***gives*** the company's primary regulator—i.e., state insurance regulator—a chance to assess, respond to, and take regulatory action on an FSOC analysis; ***amends*** the current reevaluation process for non-bank companies; ***allows*** all members of the Federal Reserve, SEC, FDIC, CFTC, and NCUA governing bodies (not just agency heads) to access FSOC meetings and info; and other provisions.

TITLE IV: Improved Accountability and Transparency in the Regulation of Insurance

Supports the McCarran-Ferguson Act as the "preferred approach" to regulating insurance; ***includes*** *The Policyholder Protection Act of 2015*—supported by NCOIL, NAIC, and others—to prevent FDIC from taking funds/assets of a savings and loan holding company (SLHC) that's also an insurer unless the state insurance regulator says it's okay; ***calls on*** Federal Reserve, FIO, and state insurance regulators to develop consensus positions re: international capital standards; ***supports*** increased transparency; ***establishes*** a Federal Reserve insurance advisory committee; and ***creates*** reporting/testimony timelines for Federal Reserve and Treasury.

TITLE V: Improving the Federal Reserve System

Makes changes to what and how often the Federal Reserve reports to Congress; ***creates*** an independent commission to look at restructuring the Fed system; ***requires*** GAO to study how Federal Reserve Banks regulate systemically important companies; ***requires*** the Fed to report every two years on its plan to regulate nonbank institutions; and other provisions.

TITLE VI: Improved Access to Capital and Tailored Regulation in the Financial Markets

Repeals indemnification requirements created by Dodd-Frank for when regulatory agencies want access to swaps data; ***addresses*** how emerging growth companies (EGCs) can access capital markets; and other provisions.

TITLE VII: Taxpayer Protections and Market Access for Mortgage Finance

Limits how increases in Fannie Mae/Freddie Mac fees can be used; ***creates*** a Secondary Market Advisory Committee; and other provisions.

TITLE VIII: Dodd-Frank Wall Street Reform & Consumer Protection Technical Corrections

Makes various non-substantive corrections to Dodd-Frank Act ■

Plan your trip to the

NCOIL SUMMER MEETING!

July 16 - 19
Indianapolis Hotel & Suites

Register now - before registration fees go up!

*** registration & tentative agenda at www.ncoil.org ***

NCOIL Summer Meeting Tentative Schedule

THURSDAY , JULY 16

7:30 a.m.	-	8:30 a.m.	Legislator Breakfast
8:30 a.m.	-	9:15 a.m.	Officers & Chairs
9:15 a.m.	-	10:30 a.m.	Workers' Compensation Insurance Committee
10:45 a.m.	-	11:45 a.m.	Financial Services & Investment Products Committee
11:45 a.m.	-	1:00 p.m.	NCOIL Institute for Insurance Policy: Legislator Luncheon Workshop
1:00 p.m.	-	2:30 p.m.	International Insurance Issues Comm./Task Force
2:30 p.m.	-	4:00 p.m.	Health, LTC & Health Retirement Issues Comm.
4:00 p.m.	-	5:00 p.m.	Membership Committee/ILF Board
5:15 p.m.	-	6:00 p.m.	ILF Scholarship Donor Reception *(by invitation of ILF Board)*
6:00 p.m.	-	7:30 p.m.	Sponsored reception in conjunction with meeting

FRIDAY, JULY 17

8:00 a.m.	-	9:00 a.m.	Business Planning/Bylaws Revision Committees
9:00 a.m.	-	10:30 a.m.	*General Session on ACA Network Adequacy*
10:30 a.m.	-	11:45 a.m.	P-C Committee Meeting on Insurance Data Mining
11:45 a.m.	-	1:15 p.m.	Keynote Luncheon
1:30 p.m.	-	2:30 p.m.	Life Insurance & Financial Planning Committee
2:30 p.m.	-	3:30 p.m.	State-Federal Relations Committee
3:30 p.m.	-	4:30 p.m.	NCOIL-NAIC Dialogue
4:30 p.m.	-	5:30 p.m.	IEC Board Meeting
6:00 p.m.	-	7:30 p.m.	Sponsored reception in conjunction with meeting

SATURDAY, JULY 18

8:00 a.m.	-	8:45 a.m.	Legislator Roundtable
8:45 a.m.	-	9:45 a.m.	Special Health Comm. Meeting on Telemedicine
9:45 a.m.	-	11:00 a.m.	*General Session on Life Insurance Suitability*
11:00 a.m.	-	12:30 p.m.	Property-Casualty Insurance Committee

SUNDAY, JULY 19

8:00 a.m.	-	9:00 a.m.	P-C Comm. Meeting on Proposed Ride-Sharing/TNC Model
9:00 a.m.	-	10:00 a.m.	Executive Committee
		10:00 a.m.	Adjournment

Fact Findings: CFPB Studies "Credit Invisibles"

The Consumer Financial Protection Bureau's (CFPB) Office of Research issued a study on May 5 that examined "credit invisibles"—that is, people for whom nationwide credit agencies have no credit records—and "credit unscorables," who have such limited or outdated credit history that it's not possible to generate a credit score. The issue is important, CFPB says, because lenders "are much less likely" to extend credit to someone who cannot be scored to determine credit worthiness.

The study offers insight into the extent of the problem and the demographics of those with little or no credit and is meant to inform public discussion. The full report is available through the CFPB Web site, www.consumerfinance.gov. Below are some key findings.

"As of 2010, 26 million consumers in the United States were credit invisible, representing about 11 percent of the adult population. An additional 19 million consumers, or 8.3 percent of the adult population, had credit *(cont. on page 4)*

NCOIL to Explore King v. Burwell…

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a person is exempt from the coverage mandate.

The plaintiffs base their eight (8) percent income calculation on the argument that they are not eligible for ACA premium subsidies—and so must pay the full cost of coverage—because they live in a state with a federally facilitated/run exchange. According to wording in the ACA, the plaintiffs say, only people using state-based exchanges are eligible.

Not so, says the federal government. Officials argue that the ACA intends to make subsidies available to exchange consumers in all states—and that means that the four plaintiffs must buy insurance.

CONSUMER IMPACT

According to The Urban Institute, approximately seven (7) million people will lose their subsidies if the Supreme Court rules against the federal government—resulting in millions of people who can no longer afford insurance.

Who are they? The Institute estimates that people mostly likely to lose their health insurance because they can no longer afford it will be white, high school graduates, full-time employees, and living in the South. ■

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...for the states
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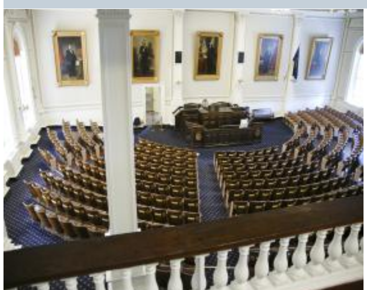

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Fact Findings…

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records that were treated as unscorable by a commercially-available credit scoring model."

"There is a strong relationship between income and having a scored credit record. Almost 30 percent of consumers in low-income neighborhoods are credit invisible and an additional 15 percent have unscored records. …in upper-income neighborhoods, only 4 percent of adults are credit invisible and another 5 percent have unscored credit records."

"About 15 percent of Blacks and Hispanics are credit invisible (compared to 9 percent of Whites and Asians) and an additional 13 percent of Blacks and 12 percent of Hispanics have unscored records (compared to 7 percent of Whites). These differences are observed across all age groups…"

"…over 80 percent of 18 or 19 year olds are credit invisible or have unscored records. This percentage drops substantially for older consumers, falling below 40 percent in total for the 20 to 24 year old age group. After age 60, the number of consumers that are credit invisible or that have an unscored record increases with age."

"Interestingly, having a stale-unscored credit record is not strongly related to age. In fact, the incidence of a stale unscored record is higher for consumers aged 25 to 49 than it is for consumers older than 50." ■