

## NCOIL Plans Crucial Health Exchange Sessions, White Paper on State Options

With only 16 months left for states to develop and earn federal approval of their health exchanges—necessary to stave off federal preemption—NCOIL has scheduled more than five hours of interactive sessions with key experts in November to lay groundwork for an NCOIL white paper on public policy options. The exploration of exchange design and funding—part of an ongoing NCOIL effort to help lawmakers work through exchange uncertainties—will take place at the November 17 through 20 NCOIL Annual Meeting in Santa Fe.

A Thursday, November 17, symposium, entitled *Designing an Exchange: What Options are Right for Your State?*, will open with two hours of expert analysis of key exchange components. (cont. on page 2)



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**NCOIL ANNUAL MEETING**  
 Santa Fe, NM  
 November 17 — 20  
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## SLIMPACT COMMISSION PICKS KENTUCKY COMMISSIONER AS LEADER, GAINS CONSENSUS ON ALLOCATION FORMULA

NCOIL President Rep. George Keiser (ND) has congratulated Kentucky Insurance Commissioner Sharon Clark on being selected to lead the *Surplus Lines Insurance Multi-State Compliance Compact* (SLIMPACT)'s critical governing body. Commissioner Clark—who has been instrumental in development of a SLIMPACT tax allocation formula—was unanimously selected to serve as interim chair by her peers on an August 18 webinar.

"It is fitting that Commissioner Clark has been voted in

as SLIMPACT interim chair," Rep. Keiser declared, "as Kentucky was the first state to enact SLIMPACT legislation...on the heels of Dodd-Frank's recommendation for uniform surplus lines tax allocation and regulation."

The NCOIL President, after expressing optimism that "SLIMPACT will continue to forge ahead under Commissioner Clark's leadership," recognized her already key role. "The Kentucky Department of Insurance," he said, "has led the way in the development of...a simplistic tax allocation formula using readily available data." (cont. on page 4)

## NCOIL PURSUES CERTIFICATE OF INSURANCE MODEL, EYES INSURANCE BINDER OPTION

Legislators convened in Santa Fe, New Mexico, on November 20 will take a critical look at proposed model legislation that would define and govern the use of controversial certificates of insurance—documents that insurance agents prepare in order to outline an insured's coverage. NCOIL Annual Meeting review of a *Certificates of Insurance Model Act*—closely watched by both the property-casualty and commercial lending industries—will hinge on whether certificates are simply

"information only" and whether insurance binders, rather than the draft model, lie at the heart of quieting debate.

Currently, the proposed model law would require certificate forms to contain "information only" disclosure, call for regulator approval of all forms, and prohibit altering a certificate or using false or misleading information. The proposed model—soon to be explored by the Property-Casualty Insurance Committee via conference call—would ban reference to (cont. on page 2)

## NCOIL Pursues...

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third-party contracts and stress that a certificate confers no additional rights.

Prior to the NCOIL Summer Meeting, interested parties submitted disparate, not yet debated, amendments. These would **carve out commercial lending transactions**, indemnify producers from civil liability and, among other things, require a lender to accept an insurance binder as evidence of coverage.

At the July meeting, the Committee suggested that the concerns of lenders—who want certificates to be more than informational—could be resolved more appropriately by changing how **insurance binders** are used. Options offered include lengthening the window of time before a binder expires, which could reassure lenders that coverage is in force when a loan is finalized. Certain lawmakers asserted that the purpose of the draft model, sponsored by NCOIL President Rep. George Keiser (ND), should be to **stem certificate abuse and ease undue pressure on agents**, rather than to weigh in on a mortgage industry issue.

According to commercial lenders, including **life insurers that use loans as investments**, binders are not sufficient because they expire, do not provide sufficient detail, and do not list lenders as

## NCOIL Plans

Speakers will weigh in on tough choices states must make on key exchange components, such as governing exchanges with state, quasi-state, or nonprofit agencies; federal, regional, and single state exchange structures; merging individual and small business pools; plan offerings; rules inside and outside exchanges and adverse selection; and multi-state health plans. A third hour of the 1:00 to 4:00 p.m. session will focus on commentary from insurance carrier, agent, consumer, and regulator representatives.

On Saturday, November 19, NCOIL will zero in on the million-dollar question, literally. A 9:45 to 11:15 a.m. session, entitled *Exchange Funding: Finding the Money, Figuring the Costs*, will help legislators from cash-

strapped states get a handle on how to make their exchanges self-supporting after 2014, as the federal law requires. Expert invited speakers—including representatives of the U.S. Department of Health and Human Services (HHS) and the



National Association of Insurance Commissioners (NAIC), among others—will explore possible funding through things like premium taxes

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and/or user fees and will seek to measure cost impacts of new information technology, HHS's soon-to-be-determined “essential benefits” requirements, and other items.

The Annual Meeting sessions will build on more than a year of NCOIL

exploration into the what's and how-to's of reform implementation. The white paper will be released after the Annual Meeting. ■

## NCOIL to Look at State-Level Impacts of Dodd-Frank

Building on the group's already in-depth examination of last year's financial reforms, the NCOIL Financial Services &

Investment Products Committee will look at how the Dodd-Frank Act is impacting everyday regu-



lation in the states when the group convenes during the November Annual Meeting in Santa Fe.

The Committee's special discussion of Dodd-Frank comes on the heels of a series of NCOIL sessions examining federal bodies created under the law—including the Financial Stability Oversight Board, Federal Insurance Office, and Consumer Financial Protection Bureau—and their respective insurance responsibilities

and/or authorities.

As the new federal entities issue reports and regulations, NCOIL will focus on Dodd-Frank's impacts on day-to-day state regulation as well as on insurers' ability to maintain and operate in a competitive market. Stakeholders will apprise legislators of what changes have been most costly to implement and what future reforms could be on the horizon, among other things.

The NCOIL Financial Services Committee will meet from 9:45 to 11:15 a.m. on Thursday, November 17. ■



## NCOIL Seeks Unclaimed Death Benefit Rules for 2012 Sessions

NCOIL legislators—citing a need to promote transparency and accountability in how life insurers pay unclaimed benefits—are advancing model legislation this fall to provide guidance in time for 2012 legislative sessions. Review of the model language is scheduled for November 17 during the Santa Fe NCOIL Annual Meeting.

Sponsored by NCOIL Past President Rep. Robert Damron (KY), proposed language would require insurers to periodically check a national Social Security database to identify deceased policy owners,

reasonably attempt to find beneficiaries, and pay any unclaimed benefits in a timely manner. Changes would also require insurers to use the same review procedures for both annuities and life insurance and—if a beneficiary isn't found within 45 days—to remit unclaimed



proceeds to the states.

NCOIL action responds to recent allegations that companies possess

millions in unclaimed death benefits owed to beneficiaries. Recent probes by insurance regulators in California and Florida, as well as media reports, claim that insurers use a Social Security Death Master File to decide when to end annuity payments, but not to notify life insurance beneficiaries. Insurers, as well as some state legislators and regulators, have noted that current laws do not require companies to check the Social Security database for life insurance purposes.

The Life Committee calls are expected to take place in late September. ■

## NCOIL Pursues...

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insurance contract. The industry asserts that the **ACORD certificates** it relied on before they were revised to say “information only” served as crucial, official evidence—particularly since it can take many months before an insurance policy is released—that insurance existed at the time of a closing. The loan industry says that exempting lending transactions from the model's scope—in other words, allowing



lending certificates to be **evidence of coverage**—would be crucial.

P-C insurers and agents at the Summer Meeting argued that carving out lending transactions would create a separate category of certificates that would serve as “mini policies” **conferring rights** that only an insurance policy can. Certificates are inherently informational, the p-c industry says, and are merely courtesy documents reflecting provisions in a policy.

NCOIL consideration of the model will include input from a **broad array of stakeholders**.

The Committee's November 20 Santa Fe working session is slated for 8 to 9 a.m. ■

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### NCOIL ANNUAL MEETING

November 17 – 20

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## NCOILetter

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### SLIMPACT

The Kentucky proposal was unanimously approved in a straw vote of SLIMPACT state representatives from Alabama, Indiana, Kansas, New Mexico, Rhode Island, Tennessee, and Vermont. North Dakota abstained, as an official designee had not been named. The insurance industry also widely supports the Kentucky approach.

It is NCOIL's hope that, under Commissioner Clark's leadership, the Commission will continue to review the allocation method, as well as Commission bylaws and

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rules for rulemaking, with the goal of affirming and



advancing them upon the advent of the tenth SLIMPACT member state. ■



## NCOIL ANNUAL MEETING PLAN EARLY — STAY LATE!

Meeting begins early Thursday, November 17  
— ends at 10 a.m. on Sunday, November 20!

**SANTA FE, NEW MEXICO**

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