

This letter will present a brief synopsis and then a more detailed report of action taken at the National Conference of Insurance Legislators (NCOIL) Annual Meeting in Santa Fe, New Mexico, from November 20 through 23, 2003.

At the meeting, legislators focused on state regulation of insurance; property-casualty rate regulation; market conduct reform; consumer identity theft; protection of consumers against mutual fund abuses; reinsurance collateral requirements; flood insurance; asbestos liability reform; structured settlements; medical malpractice; and the uninsured.

More than 300 state legislators, insurance regulators, and industry and media representatives attended the meeting.

## **SYNOPSIS**

At the NCOIL Annual Meeting, legislators:

- Amended the NCOIL *Property-Casualty Insurance Modernization Act*
- Adopted a *Resolution in Support of Flex-Rating as an Interim Step Toward Rate Regulation Based More on Open Competition*
- Considered the NCOIL *Market Conduct Surveillance Model Act*
- Adopted an *Identity Theft Protection Model Act*
- Adopted a *Resolution in Support of Federal Legislation to Protect American Investors*
- Adopted a *Resolution Regarding Reinsurance Collateral Requirements*
- Adopted a *State Flood Disaster Mitigation and Relief Model Act*
- Adopted a *Resolution Regarding the Need for Effective Asbestos Reform*
- Amended the NCOIL *Structured Settlements Transfers Protection Model Act*
- Participated in a general session on medical-malpractice insurance
- Participated in a general session on solutions to reduce the number of Americans without health insurance

## **DETAILED REPORT**

### **PROPERTY-CASUALTY RATE MODERNIZATION**

Legislators at the Property-Casualty Insurance Committee meeting amended the NCOIL *Property/Casualty Insurance Modernization Act*, originally adopted on July 13, 2001, and amended on November 16, 2001, and on March 1, 2002. The Committee had deferred its review of the NCOIL model act during the 2003 Summer Meeting in order to solicit input from various interested parties regarding possible amendments to the NCOIL model. Based on responses the Committee received, legislators considered several draft amendments and adopted the following: delete Section 18, regarding exempting insurers from actions under separate state laws not dealing with insurance. In addition, the Committee adopted several technical amendments to the NCOIL model.

In general, the NCOIL rating model act would establish a use-and-file rate regulatory system for personal lines of insurance; a no-file system for commercial lines; and an exemption from rate and regulatory requirements for sophisticated commercial insurance providers. It also would provide guidance on how to monitor an insurance marketplace.

Legislators at the Property-Casualty Insurance Committee meeting further adopted a proposed *Resolution in Support of Flex-Rating as an Interim Step toward Rate Regulation Based More on Open Competition*, sponsored by Sen. David Bates (RI). The proposed resolution also was drafted in response to input received from various interested parties, including legislators, regulators, consumer advocates, and insurance industry and agent representatives. Among other things, the resolution acknowledges Congress' interest in state speed-to-market reforms and recognizes that in states with strict rate regulation, the transition to a use-and-file system, like that set forth in the NCOIL *Property/Casualty Insurance Modernization Act*, may be difficult. The resolution supports flex-rating as an interim step toward enactment of a more competition-based regulatory system and resolves that NCOIL, prior to the 2004 Spring Meeting, will investigate ways to assist states interested in enacting flex-rating for such a purpose.

## MARKET CONDUCT REFORM

## CONSUMER IDENTITY THEFT

## PROTECTION AGAINST MUTUAL FUND ABUSES

## REINSURANCE COLLATERAL

## FLOOD INSURANCE

Legislators at the Property-Casualty Insurance Committee meeting adopted a proposed *State Flood Disaster Mitigation and Relief Model Act*, sponsored by Rep. Craig Eiland (TX). During the 2003 NCOIL Summer Meeting, the Committee had accepted the results of the recent Insurance Legislators Foundation's (ILF) flood insurance study, conducted in conjunction with

the Federal Emergency Management Agency (FEMA), and had instructed staff to pursue model legislation. As adopted, the flood insurance model act would address: a need for state-regulated lenders to comply with the flood-insurance purchase and notice requirements required of federally regulated lenders; floodplain regulation, including issuing variances, acquiring existing structures, and delineating flood-hazard areas; hazard mitigation, including establishment of a grant program to help fund activities to reduce or eliminate long-term risks related to natural hazards; and participation in the National Flood Insurance Program (NFIP) through, among other things, education of insurance producers and adjusters.

### ASBESTOS LIABILITY REFORM

Legislators at the Executive Committee meeting adopted a *Resolution Regarding the Need for Effective Asbestos Reform*, sponsored by Rep. George Keiser (ND). The Property-Casualty Insurance Committee earlier had adopted the resolution via conference call following the 2003 Summer Meeting. The resolution recognizes asbestos' widespread impact on consumers, communities, and businesses and endorses federal and state asbestos reform legislation that would:

- provide for the ongoing, fair compensation of functionally impaired asbestos victims
- allow for a tolled statute of limitations, based on medical criteria, for asbestos claims brought by unimpaired victims
- ensure the financial solvency of businesses exposed to asbestos liability
- require claimants to file suit in either the jurisdiction of his/her asbestos exposure or in the jurisdiction of the defendant's principle place of business
- limit consolidation of asbestos claims

### STRUCTURED SETTLEMENTS

Legislators at the Workers' Compensation Insurance Committee meeting amended the NCOIL *Structured Settlements Transfers Protection Model Act*, originally adopted on July 7, 2000. The Committee had several times deferred its review of the NCOIL model in order to, among other things, compare consumer protections in the model against those offered in a similar bill. Legislators in Santa Fe adopted the following proposed amendments: 1) delete Section 3(a)(7) and amend Section 3(a)(3), regarding court determination of the fairness, justness, and reasonableness of a structured settlements transfer; and 2) delete Section 3(5), regarding requiring a transferee to provide written notice of taxpayer identification and other information.

In addition, the Committee deferred until the 2004 Spring Meeting its review of several other proposed amendments in order to further refine their drafting. In general, the NCOIL model act would protect structured settlement recipients involved in the transfer of structured settlement payment rights and would address issues including court approval, standards for assignment, professional advice, and disclosure requirements.

### MEDICAL MALPRACTICE

Legislators participated in a general session entitled *Medical Malpractice: Crisis and Solutions*, moderated by Rep. Craig Eiland (TX). Panelists discussed, among other items, principal cost drivers in the medical liability system and the current hard market's likely impact on consumer access to quality healthcare. The panel featured:

- Lawrence Cluff, General Accounting Office (GAO), Washington, D.C.
- Derick White, Vermont Department of Insurance, Montpelier, VT
- Kimberly Horvath, American Medical Association (AMA), Chicago, IL
- Patricia Born, California State University, Northridge, CA
- Sal Bianco, The Doctors' Company, Napa, CA
- Jay Angoff, Roger G. Brown & Associates, Jefferson City, MO

## THE UNINSURED

*This report currently is available on the NCOIL Web site at: [www.ncoil.org](http://www.ncoil.org). If you would like to receive additional information regarding any of the issues discussed above, or are interested in ordering a general session audiotape, please contact the NCOIL National Office at (518) 449-3210.*

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