

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
FINANCIAL SERVICES AND INVESTMENT PRODUCTS COMMITTEE
SEATTLE, WASHINGTON
JULY 19, 2007
MINUTES

The Financial Services and Investment Products Committee of the National Conference of Insurance Legislators (NCOIL) met at the Sheraton Seattle Hotel & Towers in Seattle, Washington, on Thursday, July 19, 2007, at 1:30 p.m.

Rep. Fulton Sheen of Michigan, chair of the Committee presided.

Other members of the Committee present were:

Sen. Ralph Hudgens, GA	Sen. William J. Larkin, Jr., NY
Sen. Ruth Teichman, KS	Rep. Ronald Peterson, OK
Rep. George Keiser, ND	Rep. Brian Kennedy, RI
Rep. Frank Wald, ND	

Other legislators present were:

Rep. Greg Wren, AL	Sen. Pete Pirsch, NE
Rep. Michael Ripley, IN	Rep. Donald Flanders, NH
Sen. Chris Steineger, KS	Rep. William Batchelder, OH
Rep. Dennis Keene, KY	Rep. Michele Kupersmith, VT
Rep. Tommy Thompson, KY	Rep. Virginia Milkey, VT
Sen. Delores Kelley, MD	Rep. Steve Kirby, WA
Sen. Alan Sanborn, MI	Rep. Dan Roach, WA
Rep. Joe Atkins, MN	

Also in attendance were:

Susan Nolan, Nolan Associates, NCOIL Executive Director
Candace Thorson, NCOIL Deputy Executive Director
Mike Humphreys, NCOIL Director of Legislative Affairs & Education, Life, Health, and Workers' Compensation Insurance

MINUTES

Upon a motion made and seconded, the Committee voted unanimously to approve the minutes of its March 1, 2007, meeting in Savannah, Georgia.

NAIC MODEL AUDIT RULE ACTIVITY

Neil Alldredge, representing the National Association of Mutual Insurance Companies (NAMIC), reported on the status of NAIC efforts to apply Sarbanes-Oxley (SOX)-inspired requirements to non-public, including mutual, insurance companies via amendments to the model audit rule.

Mr. Alldredge said that, at the June NAIC meeting, regulators moved forward with making the model audit rule amendments part of the accreditation program. He noted that the model audit rule is already part of accreditation and said he anticipated a final vote on the matter at the September NAIC meeting. He said that states would have approximately one (1) year to enact these changes or risk losing their accreditation status.

Mr. Alldredge reiterated NAMIC's opposition to the model audit rule changes, spoke to current Securities Evaluation Office (SEC) concerns with the consequences of the federal SOX, and said that no state had yet enacted the type of requirements that the NAIC was contemplating.

In response to a question from Rep. Keiser, Mr. Alldredge said that there were no issues unique to mutual companies that would require SOX-style regulation. He suggested that the NAIC model audit rule initiative was a solution looking for a problem.

SECURITIES VALUATION OFFICE (SVO) ACTIVITIES

Brett Palmer of the NAIC said that during the 2006 NAIC Winter Meeting, an SVO Task Force had made five (5) recommendations regarding SVO classification of securities. He also outlined administrative and procedural actions taken at the 2007 NAIC Summer Meeting.

Dave Sandberg, representing the American Academy of Actuaries (AAA), overviewed the Academy's role in the SVO discussion, describing it as one primarily of assistance to the NAIC. He then spoke to the Academy's view that hybrid securities should be considered as debt instruments.

John Gerni, representing the American Council of Life Insurers (ACLI), noted that under an NAIC interim proposal these securities would be classified as debt instruments. He said the ACLI would continue monitoring ongoing activities in this area.

SUBPRIME LENDING

Paul Leonard, representing the Center for Responsible Lending, discussed what he described as a historic crash in the subprime lending market during the last six to nine months, following a rapid expansion in subprime lending. He said that 20 percent of all 2006 subprime loans would end in foreclosure, and he estimated that approximately \$164 billion in equity would be lost.

Mr. Leonard said that the heart of the subprime lending problem lay in the underwriting and accessibility of these loans, rather than in their use as refinance instruments. He elaborated on the mechanics of subprime lending and outlined both proposed and in-progress federal responses.

In response to questions from Sen. Hudgens, Mr. Leonard said that, historically, subprime loans were not considered predatory. He said there was no clear definition of predatory lending.

Mr. Palmer added his view regarding the factors that contribute to a high level of defaults on subprime loans, highlighting a lack of vigorous underwriting. He said that striking an appropriate balance between access to loans and availability of credit was an ongoing challenge. He suggested that the chance of Congress passing legislation on the issue was no more than 50 percent, but he noted that several states have passed legislation.

Rep. Keiser asked whether lending institutions have been delaying recognition of losses on sub-prime loans.

Mr. Palmer replied that the question was difficult to answer, noting that most of these loans have been packaged as securities and sold in the secondary market, thereby transferring much of this risk to institutional investors. He noted that rating agencies have begun to downgrade bonds associated with subprime loans and further discussed the mechanisms by which these loans are packaged.

Birny Birnbaum, representing the Center for Economic Justice (CEJ), discussed the effect that Wall Street has on the mortgage market and spoke to the insurance-related implications of subprime lending. He noted that the Office of the Comptroller of the Currency (OCC) had preempted state consumer protection laws—which he said should cast doubt on the so-called benefits of optional federal charters. He commented that a 20 percent foreclosure rate was unacceptable. He added that the subprime meltdown was essentially reverse redlining—or the targeting of vulnerable populations for unsuitable subprime loans.

STATE EFFORTS RELATED TO THE REGULATION OF TITLE INSURANCE

Mr. Palmer said the NAIC would soon hold a conference call to discuss expanding regulation of the title insurance industry. He described efforts undertaken by the NAIC in the wake of a recent General Accounting Office (GAO) report on the issue.

Mr. Birnbaum observed that there is a lack of competition in the title insurance market. He said products are marketed to those who steer business to title insurers (e.g., real estate agents, brokers, and attorneys) rather than to those people who actually purchase coverage. He suggested that this practice gave rise to both legal and illegal kickbacks. Mr. Birnbaum stated that most governmental activities related to title insurance have been at the state level, citing California, Missouri, New Mexico, Washington, and Florida as examples. He commented that the NAIC had been slow to make progress.

STATE PAYDAY LENDING ACTIVITY

Mr. Humphreys reported that Oregon had enacted payday lending legislation and that Washington, DC, was considering taking action.

Rep. Sheen noted that the Committee had not adopted a payday lending model law due to concerns that a model might indicate NCOIL endorsement of payday lending. He said the Committee did have a list of “best practices” for states who request the information.

Sen. Larkin registered his objection to the concept of payday lending, and Sen. Kelly described Maryland’s efforts to regulate payday lending, as well as federal preemption of Maryland’s initiatives.

Nathan Groff, representing Veritec, overviewed state payday lending efforts and addressed issues regarding loan caps, frequency of loans, and costs. He said other countries were investigating payday lending as well.

Mr. Groff said the estimated default rate on payday loans was approximately two (2) percent and spoke to the impact that payday loans have on the military.

Mr. Leonard of the Center for Responsible Lending registered his organization’s objection to payday lending. He said that 25 percent of states have not legalized payday lending and that in these states no loan crisis exists. He noted that the payday loan business model is based on repeat loans, which he said leads to recurring debt.

ADJOURNMENT

There being no further business, the Committee adjourned at 2:25 p.m.

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