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## **NCOIL OPPOSES FTC ENCROACHMENT OF THE STATE REGULATION OF INSURANCE**

*Urges the McCarran-Ferguson Doctrine Be Upheld*

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Belmar, NJ – The National Council of Insurance Legislators (NCOIL) has submitted a comment letter to the Federal Trade Commission (FTC) urging it to amend a proposed rule which, as currently drafted, needlessly encroaches on the longstanding framework of the state regulation of insurance and violates the McCarran-Ferguson Doctrine.

“This Proposed Rule is yet another example of why it is important for state legislators and regulators to always be alert and ready to push back on any and all attempts to undermine the state-based system of insurance regulation,” said Arkansas Representative Deborah Ferguson, DDS, NCOIL President. “Protecting consumers is always our number one priority and the state-based system of insurance regulation has proven time and time again that it is more than capable and that federal involvement is not needed.”

If promulgated as currently drafted, the Rule would abrogate the States’ authority to regulate service contracts, which have historically been recognized as an insurance-related product, illustrated by the fact that state insurance departments, in whole or in part, currently regulate service contracts in 43 states. Many of those regulations include specific requirements on issues such as cancellations and refunds, disclosures, demonstration of financial responsibility to pay claims, and entity registration with the state department of insurance.

Service contracts, like insurance, provide consumers the ability to protect themselves from financial hardship. In the case of service contracts the risk arises should some of their most important purchases (i.e. mobile devices, motor vehicles, household systems and appliances) break down and require expensive repair, replacement, or maintenance. Specifically, service contracts ensure the repair, replacement, or maintenance for the operational or structural failure of property



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(or indemnity for the same) due to defects, accidental damage, normal wear and tear, or damages due to service interruption.

The FTC apparently has some concerns with certain companies' use of service contracts. Having not yet studied them, NCOIL takes no position on those specific concerns at this time, other than to condemn unfair and deceptive actions in all instances. However, state's current level of service contract regulation dictates that under the express power given by Congress to the States to regulate insurance, States also have the express power to regulate certain products, such as service contracts, that fall within the regulatory penumbra of insurance regulation.

NCOIL CEO, Commissioner Tom Considine stated, "We at NCOIL urge the FTC to exempt service contracts from the Proposed Rule to ensure that the Rule does not violate the McCarran Ferguson Doctrine and infringe on the Congressionally-delegated rights of the States to regulate the business of insurance. State insurance legislators and regulators have been effectively overseeing insurance practices and consumer protections for decades, and this proposal needlessly threatens to disrupt a system that has led to the strongest and safest insurance market in the world."

For more information on the Proposed Rule and to view all public comments, please see this link: <https://www.regulations.gov/document/FTC-2023-0033-0001>

A full copy of the comment letter can be viewed [here](#).

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*NCOIL is a national legislative organization with the nation's 50 states as members, represented principally by legislators serving on their states' insurance and financial institutions committees. NCOIL writes Model Laws in insurance and financial services, works to preserve the State jurisdiction over insurance as established by the McCarran-Ferguson Act over seventy years ago, and to serve as an educational forum for public policymakers and interested parties. Founded in 1969, NCOIL works to assert the prerogative of legislators in making State policy when it comes to insurance and educate State legislators on current and longstanding insurance issues.*