



EXCESS LINE ASSOCIATION
OF NEW YORK

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New York, New York 10005

Janet Pane
Executive Director

November 15, 2023

The Honorable Forrest Bennett
Chair, Financial Services & Multi-Lines Issues Committee
National Council of Insurance Legislators
616 5th Avenue, Suite 106
Belmar, NJ 07719

Re: Resolution in Support of Establishing National Standards and Procedures for the Reporting and Payment of Premium Taxes Due as a Result of Interstate Insurance Transactions

Dear Chairperson Bennett:

On behalf of the Excess Line Association of New York (ELANY), I am writing to oppose the *Resolution in Support of Establishing National Standards and Procedures for the Reporting and Payment of Premium Taxes Due as a Result of Interstate Insurance Transactions*. The resolution, while substantially amended, continues to raise concerns around consumer protection and industry reputation and remains vague as to intent and effect.

The resolution presumes an epic failure on the part of some states to collect premium taxes without any supporting data and then asserts a threat to the states that such a failure could lead to federal intervention. It asks NCOIL to support unwritten legislation to fix a problem that may not even exist. We think it would be unprecedented for NCOIL to endorse unwritten legislation.

This resolution could be viewed as supporting an expanded use of the direct procurement distribution model. We urge NCOIL to consult with state regulators and the NAIC and review the history of the direct procurement model before it takes any action on this resolution. The fabric of consumer protections in state insurance laws begins with the requirement that insurers and producers be licensed in the state where they sell, solicit and negotiate insurance. Legitimate direct procurement transactions involve insurers that are not licensed in the state of the insured and no broker is involved to help protect the insured's interests. The transactions are to be negotiated outside the state of the insured's residence leaving that state unable to assert jurisdiction over the transaction. As such the insured cannot avail itself of the protections of the

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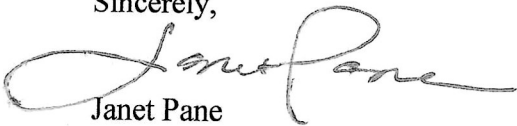
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insurance laws which are provided when insurance is sold by licensed insurers through licensed insurance producers.

While we understand the use of direct or independent procurement by sophisticated, large commercial risk managers, we would not want to see an expansion of this distribution model to consumers.

For all these reasons, ELANY opposes the adoption of the resolution.

Sincerely,



Janet Pane

Cc: The Honorable Neil Breslin (New York State Senate)
The Honorable Pamela Helming (New York State Senate)
The Honorable Pamela Hunter (New York State Assembly)
The Honorable David Weprin (New York State Assembly)
John Finston (New York State Department of Financial Services)
Thomas Considine (NCOIL)
William Melofchik (NCOIL)
Howard Greene (ELANY)
Daniel Maher (ELANY)

