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## National Council of Insurance Legislators (NCOIL)

### Resolution Reaffirming Support for the U.S. State-Based System of Insurance Regulation in Response to Growing Federal Encroachment

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*\*To be discussed and considered during the Joint State-Federal Relations & International Insurance Issues Committee on April 12, 2024.*

*\*Sponsored by Rep. Tom Oliverson, M.D. (TX), NCOIL President, and Asw. Pam Hunter (NY), NCOIL Vice President.*

**WHEREAS**, the U.S. state-based system of insurance regulation has effectively protected consumers and helped create the largest, most competitive and innovative insurance market in the world; and

**WHEREAS**, Congress has continually affirmed the primacy of state-based insurance regulation, including the McCarran-Ferguson Act in 1945 and most recently in the Dodd-Frank Act of 2010; and

**WHEREAS**, despite this success and affirmation, there has been a growing trend in recent years at the federal agency level of encroaching on the longstanding framework of the state-based insurance regulatory system; and

**WHEREAS**, this encroachment is extremely troubling and poses a threat to the state-based system of insurance regulation, and with it the stability and success the state system has produced; and,

**WHEREAS**, this threat is illustrated by actions such as:

- the return of the U.S. Department of Labor (DOL)'s proposed fiduciary rule despite an essentially identical rule being vacated by the United States Court of Appeals for the Fifth Circuit;
- the Federal Trade Commission's (FTC) proposed rules regarding service contracts and non-compete agreements;
- the Internal Revenue Service's (IRS) proposed rule regarding captive insurers;

- the tri-agency proposed rule regarding short-term, limited duration insurance; independent, non-coordinated excepted benefits coverage; level-funded plan arrangements; and tax treatment of certain accident and health insurance;
- certain activities within the Federal Insurance Office (FIO); and
- the growing unintended reach of the Employee Retirement Income Security Act of 1974 (ERISA), acting as a critical barrier for states seeking to enact meaningful healthcare reforms; and

**NOW, THEREFORE, BE IT RESOLVED**, that NCOIL reaffirms its unqualified support for the U.S. state-based insurance regulatory structure; and

**NOW, THEREFORE, BE IT FURTHER RESOLVED**, that NCOIL will continue to monitor and push back on any and all attempts by the federal government to infringe upon the state-based system of insurance regulation; and

**BE IT FINALLY RESOLVED**, that a copy of this resolution will be distributed to the Senate Majority Leader, the Senate Minority Leader, the Speaker of the House, the House Minority Leader, the Senate Banking Committee Chair, the Senate Banking Committee Ranking Member, the House Financial Services Committee Chair, the House Financial Services Committee Ranking Member, federal and state insurance legislators and regulators, the Federal Insurance Office, the Federal Trade Commission, the Internal Revenue Service, the Department of Health & Human Services, the Department of Labor, the Department of the Treasury, and other interested parties.