

# NCOIL

National Conference of Insurance Legislators

*...for the states*

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March 20, 2012

The Honorable David Drier, Chairman  
U.S. House Committee on Rules  
U.S. House of Representatives  
H-312 The Capitol  
Washington, D.C. 20515

Dear Chairman Drier and Members of the Committee:

As National Conference of Insurance Legislators (NCOIL) President, I again write to oppose any effort to repeal the federal antitrust exemption for insurance as evidenced in amendments to H.R. 5, the *Protecting Access to Healthcare Act*. NCOIL lawmakers reaffirm our unwavering support for the McCarran-Ferguson Act's limited antitrust exemption, which we assert has contributed to the success of our state insurance markets. We strongly caution you against moving amendments to the floor that could prove detrimental to state regulation of health and property-casualty insurance industries.

NCOIL has repeatedly argued that rolling back McCarran-Ferguson's limited antitrust exemption would ignore existing state antitrust protections and reduce competition while increasing costs.

State lawmakers are especially concerned that repealing the limited antitrust exemption would drive smaller insurers from the market—an anti-competitive proposition that Congress should not endorse. The exemption permits insurers to share loss history and other information and ensures that smaller and more regional insurers can compete with larger insurers that are less dependent on industry-wide data.

Similarly, repealing the limited antitrust exemption would raise, not lower, insurance costs. By driving insurers from the market—and/or discouraging insurers from entering a new market—not only would repealing the exemption stifle competition, but it would undoubtedly increase insurance costs for consumers.

We urge you to recognize the critical need for McCarran-Ferguson—a need that is acknowledged by state legislators and regulators. We again would like to correct the misperception of the antitrust exemption. It is not a loophole through which insurers can avoid prosecution for violations such as boycotts, intimidation, or coercion. Nor does it limit the authority of states to prosecute crimes under existing state antitrust laws—a reality demonstrated by well-recognized state efforts to combat broker bid-rigging, among other things. Repealing the antitrust exemption would ignore the comprehensive insurance codes—that include antitrust enforcement—that state lawmakers have designed to govern insurance markets.

NCOIL hopes that as you consider amendments to H.R. 5, you will not get side-tracked by proposals that can cause more harm than good. Amendments aimed at state health insurance and property-casualty insurance regulation—medical malpractice is, in fact, a property-casualty insurance liability product—are unnecessary and would not further the goals of Congress to reduce healthcare delivery system costs.

Please feel free to contact the NCOIL National Office at 518-687-0178 should you have any questions.

Sincerely,



Sen. Carroll Leavell, NM  
NCOIL President

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