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November 16, 2009

The Honorable Christopher Dodd
Chairman, Senate Committee on Banking,
Housing & Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C., 20510

Dear Chairman Dodd:

The *Restoring American Financial Stability Act* summary released on November 10 reads, "The failures that led to this crisis require bold action." We as leaders of the National Conference of Insurance Legislators (NCOIL) believe that bold action should only address the financial services sectors that were causes of the economic crisis—banking and securities—and not insurance, whose regulation was not to blame. The discussion draft includes provisions that would unnecessarily federalize insurance authority, although insurance oversight has protected consumers and insurers well throughout the crisis. We have serious reservations regarding such language, particularly regarding a proposed Office of National Insurance (ONI), and would urge you and your colleagues to preserve the successful state system of insurance oversight.

Office of National Insurance

NCOIL strongly opposes the creation of the ONI. While we support enhanced state-federal coordination and/or information sharing, we oppose the creation of a federal insurance bureaucracy. We believe that the ONI, like former Treasury Secretary Henry Paulson's Office of Insurance Oversight, would serve as a first step toward federal insurance chartering—an ill-suited proposal modeled after the nation's banking system.

We were taken aback by—and would urge you to strongly reconsider—requiring the ONI to conduct a study on how to "modernize and improve" insurance regulation. State insurance legislators and regulators meet regularly to evaluate emerging issues and concerns and state uniformity efforts, making a federal study neither necessary nor warranted. We would also respectfully suggest that it would be hard for a new agency to objectively report on whether it should have expanded authorities.

Systemic Risk

We are troubled that the bill draft may also wrap insurance into its systemic risk scheme, without the benefit of state regulatory experience. While state insurance legislators and regulators would be willing to dialogue with an Agency for Financial Stability regarding insurance matters and potential risks—indeed, NCOIL suggested several months ago that any new systemic risk agency or council should include state officials—we are concerned that the new Agency may be able to unilaterally write regulations for certain insurers.

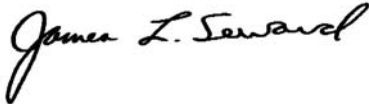
Federal authority to resolve failing insurance companies and to assess other industry participants is also unnecessary. The states have developed successful guaranty fund mechanisms to resolve the failure of even the largest insurance companies. The discussion draft should protect the well-functioning state system and prevent insurer assets from being raided to resolve a holding company. And given insurer participation in the state guaranty funds, companies should not be required to pay for failures of federally regulated institutions.

Consumer Financial Protection Agency

NCOIL applauds you for your efforts to appropriately exempt insurance from the CFPA's scope, but believes that the discussion draft may need to clearly define the term "business of insurance." The definition should be broad enough to ensure that no person, entity, or product regulated by state insurance law should fall under the CFPA. NCOIL, and our colleagues at the National Conference of State Legislatures and the Council of State Governments, also believe strongly that the CFPA should not have authority over title, mortgage, and/or credit insurance products.

State insurance regulation has been effective for over 150 years and continually adapts to successfully safeguard consumers in an ever-changing marketplace. States are actively modernizing regulation in several key areas, including speed-to-market and uniform agent and company licensing. That progress should not be left to the mercy of untried and untested new federal initiatives. We appreciate the opportunity to comment on the discussion draft and will be available to work with you to ensure that regulatory reform does not inadvertently unravel over a century of successful insurance regulation.

Sincerely,



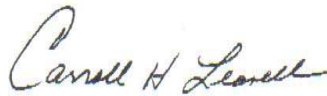
Sen. James Seward (NY)
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NCOIL Vice President



Sen. Carroll Leavell (NM)
NCOIL Secretary



Sen. Vi Simpson (IN)
NCOIL Treasurer

cc: U.S. Senate Committee on Banking, Housing, & Urban Affairs
NCOIL Legislators
Council of State Governments (CSG)
National Association of Insurance Commissioners (NAIC)
National Conference of State Legislatures (NCSL)
National Governors Association (NGA)