

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS (NCOIL)

**Resolution in Support of the Enforcement of the Department of Defense
Predatory Lending Regulation**

Adopted by the NCOIL Financial Services and Investment Products Committee on February 28, 2009, and Executive Committee on March 1, 2009.

Sponsored by Rep. George Keiser (ND)

WHEREAS, a Department of Defense (DoD) regulation on *Limitations on Terms of Consumer Credit Extended to Service Members and Dependents* (32 C.F.R Part 232) covers three forms of credit: payday loans, vehicle title loans and tax refund anticipation loans; and

WHEREAS, while federal regulatory agencies (Federal Reserve, Office of the Comptroller of the Currency, Office of Thrift Supervision, Federal Deposit Insurance Corporation and National Credit Union Administration) include the DoD regulation in their examinations of the institutions they supervise and have authority over these institutions to take enforcement action these federal agencies do not oversee non-depository financial institutions that are the primary purveyors of payday and vehicle title loans; and

WHEREAS, many state regulatory agencies include the DoD regulation in their examinations of the financial institutions they supervise; however, only 21 of the 39 states that authorize payday loans have authority to enforce the DoD regulation; and

WHEREAS, only nine (9) states of the 18 states that have statutes authorizing vehicle title loans and several others that allow these lenders to operate under other sections of their code, have authority to enforce the DoD regulation pertaining to vehicle title loans; and

WHEREAS, the DoD needs the assistance of states to enforce the DoD regulation to protect Service members and their dependents; and

WHEREAS, states without adequate enforcement authority can achieve it by adding references to the DoD regulation in the titles and parts/chapters of their statutes focused on payday and vehicle title loans, in either the section on prohibited actions or the section covering the suspension or revocation of a license; and

WHEREAS, language regarding violations and disciplinary actions can be included in the appropriate sections of the state law code, such as: violation of “any other law in the course of its or his or her dealings as a licensee,” “any other applicable law,” “federal statute, rule, or

regulation pertaining to consumer credit,” or a specific reference to violation of “section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364) or any regulation promulgated under this act;” and

NOW, THEREFORE BE IT RESOLVED that the National Conference of Insurance Legislators supports the protection of Service members and their dependents through the DoD regulation and encourages states to modify their statutes to allow for its full enforcement; and

BE IT FURTHER RESOLVED that a copy of this resolution shall be sent to state legislative leaders in the states that do not have adequate enforcement authority.