

Atlantic Corporate Center  
2317 Route 34, Suite 2B  
Manasquan, NJ 08736  
732-201-4133  
CHIEF EXECUTIVE OFFICER: Thomas B. Considine



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## NATIONAL CONFERENCE OF INSURANCE LEGISLATORS (NCOIL)

### RESOLUTION ENCOURAGING THE FEDERAL INSURANCE OFFICE (FIO) TO CREATE A NEW PROPOSAL FOR THE STUDY OF AUTO INSURANCE AFFORDABILITY IN ACCORDANCE WITH TITLE V OF THE DODD-FRANK ACT

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*Adopted by the State-Federal Relations Committee, International Insurance Issues Committee, and Executive Committee on March 5, 2017*

***Sponsored by Sen. Dan "Blade" Morrish, LA***

**WHEREAS**, Title V of the Dodd-Frank Act authorized FIO to monitor the extent to which "traditionally underserved" communities and consumers, minorities, and low-income and moderate-income (LMI) persons have access to "affordable" auto insurance; and

**WHEREAS**, the law also required the FIO to consider all publicly available data before issuing a data call of the private insurance industry; and

**WHEREAS**, the auto insurance rating laws remain within the sole jurisdiction of the states under the McCarran-Ferguson Act; and

**WHEREAS**, as regulated by the states, auto insurance rates are not to be excessive, inadequate, or unfairly discriminatory; and

**WHEREAS**, neither state law nor federal law require auto insurance rates to be "affordable" since affordability is a result of two factors, income or the ability to pay that auto insurers have no control over and the cost-based price; and

**WHEREAS**, the FIO has created an affordability index to facilitate the study and called for private auto insurance industry data; and

**WHEREAS**, the FIO did not adequately consider the sufficiency of publicly available data to facilitate the study; and

**WHEREAS**, the definition of "affordability" and the index is inappropriate for the additional following reasons:

- It fails to account for or even acknowledge the concept of consumer choice, including the well-established fact that residual market populations have been greatly reduced, providing substantial evidence of universal affordability and availability;

- It fails to consider and evaluate the multiplicity of exogenous factors that influence auto insurance pricing and consumption, including the clear stagnation of income or the ability to pay factor and the cost drivers for the pricing; and
- It inappropriately implies that one single measure is a reasonable proxy for whether auto insurance is “affordable”;

**BE IT NOW THEREFORE RESOLVED**, that the National Conference of Insurance Legislators (NCOIL) calls upon the FIO to act as follows to ensure consistency with state law and in accordance with congressional mandates that the regulation of auto insurance rates is left to the states:

- Either increase the 2% threshold or abandon the new formula in order to create a new index that incorporates the aforementioned facts and factors;
- Acknowledge that the two variables, income level and costs, must be considered and that the stagnation of income has had a serious impact on the affordability of insurance;
- Attribute the decrease in the auto insurance residual market populations to the universal affordability and availability of auto insurance;
- Acquiesce to the state regulation of insurance rates to prevent inadequacy, excessiveness, and unfair discrimination; and

Confirm in the study or in writing now that the FIO affordability index will not be used in any fashion or forum to undermine, impair or supersede the state regulation of insurance rates as being inadequate, excessive, or unfairly discriminatory.