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National Council of Insurance Legislators (NCOIL)

Resolution in Support of Establishing National Standards and Procedures for the Reporting and Payment of Premium Taxes Due as a Result of Direct Procurement

**Sponsored by Rep. Tom Oliverson, M.D. (TX)*

**Adopted by the NCOIL Financial Services & Multi-Lines Issues Committee on November 17, 2023, and the NCOIL Executive Committee on November 18, 2023.*

WHEREAS, the Nonadmitted and Reinsurance Reform Act (“NRRA”), which came into effect July 21, 2011, establishes that only an insured’s home state is permitted to collect premium taxes due as a result of payments made to an insurance carrier for a policy issued outside of said insured’s home state, unless 100% of the risk covered by the said policy is also located outside of the insured’s home state;

WHEREAS, despite provisions of NRRA which called upon the states to create national standards and procedures for reporting and collection of premium taxes due as a result of interstate insurance transactions, no national standards or procedures, other than the general guidelines set forth in NRRA have yet been established;

WHEREAS, one of the lawful methods of obtaining insurance from a carrier located outside of an insured’s state of domicile is known variously as Direct, Independent, or Foreign Procurement (“Foreign” in this case referencing outside of the insured’s state of domicile, but within the United States);

WHEREAS, when an insurance policy is obtained through Direct Procurement, it is the obligation of the insured (and not carriers, brokers, or other intermediaries) to report and pay premium taxes due to the insured’s home state;

WHEREAS, although some states have established and published clear and efficient procedures for the reporting and payment of premium taxes for Directly Procured policies, others have not, resulting in confusion, under-reporting, and underpayment;

WHEREAS, shortfalls by the states in the identification and collection of premium taxes due as a consequence of directly procured insurance policies results in lost revenue to the states, and could also result in further federal intervention, a result that would be counter to NCOIL's charter and purpose;

WHEREAS, NOW, THEREFORE, BE IT RESOLVED that NCOIL urges each of the states and U. S. territories, as well as the District of Columbia, to work cooperatively to accomplish the following:

- Establish and publish clear guidelines for the reporting and remittance of premium taxes due as a result of direct procurement;
- Make clear distinctions between the various types of interstate insurance transactions, including Excess and Surplus Lines; direct procurement, and captive insurers, and clarify that the intent of any new legislation and/or regulation is to impact direct procurement only, and not any other type of insurance;
- Enact legislation and/or regulations to permit insureds who are responsible for reporting and remittance of premium taxes for policies acquired through direct procurement to assign said functions to issuing carriers, and/or to third parties such as third party administrators or accounting firms, while cautioning that such assignment will not relieve insureds of their legal responsibilities to report and remit premium taxes;
- Take all steps necessary to ensure compliance.

BE IT FINALLY RESOLVED, that a copy of this resolution shall be sent to legislative leaders in each of the states and territories; the chairpersons of the Insurance and Revenue Committees (or equivalent) of each state legislative body; the Treasurer (or equivalent) of each state and state and territory; the Department of Insurance (or equivalent) in each state and territory; the National Association of Insurance Commissioners (NAIC); and all other parties who may have an interest in the lawful reporting and collection of premium taxes.