

# NCOIL NEWSLETTER



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Rep. Tom Oliverson MD, TX  
President



Thomas B. Considine  
NCOIL CEO



Asw. Pamela Hunter, NY  
Vice President

## From the President's Desk

*Rep. Tom Oliverson, M.D. (TX) – NCOIL President*

I hope everyone had a great Memorial Day Weekend. As Summer begins and we look towards the second half of 2024, I'd like to share some thoughts on what NCOIL has accomplished so far this year and where the organization is headed.

Our Spring Meeting in Nashville set the tone for what is shaping up to be a really strong year from both a substantive and attendance aspect. I'm glad to say the Meeting broke all previous Spring Meeting attendance records with 367 attendees including 73 legislators from 31 states. Additionally, 8 Insurance Commissioners (or equivalent) attended and in all 16 insurance departments were represented.

I was particularly pleased to see the number of states represented at the Meeting. At our Spring Meeting five years ago, also in Nashville, we saw legislator participation from 19 states so seeing that rise to 31 is very encouraging. Having a healthy majority of states represented at our Meetings is vital in ensuring that the issues we discuss and Model Laws we develop are inclusive of viewpoints from all across the country.

The attendance in Nashville also beat our Summer Meeting attendance record so it's safe to say we have our work cut out for us as we plan for our upcoming Summer National Meeting which is scheduled for July 17<sup>th</sup> – 20<sup>th</sup> in Costa Mesa, CA. It's hard to believe we are already gearing up to meet again but I am looking forward to seeing everyone soon in the Golden State. Registration for the Meeting is now open and you can find more information on page 7 of this newsletter.

The agenda for the Meeting is shaping up to be very busy with many pressing issues that I'm sure will spark a productive dialogue among our both legislators and interested parties. Some topics already on the agenda include:

- regulation of the third party litigation financing industry;
- initiatives to promote financial literacy;
- insurer's use of aerial images to inspect roofs;
- regulation of earned wage access providers;
- value-based purchasing agreements between States and drug manufacturers; and
- methods to incentivize homeowners to protect their homes from natural disasters.

## From the President's Desk (cont'd)



Sen. Paul Utke, MN  
Treasurer

We'll also be kicking off a two part series focusing on the theme of "prevention is better than a cure." Part one will center on the importance of preventative care and adherence to medicine and part two will explore the role of proper nutrition in the prevention of disease and how food really is medicine. I'm glad we will be giving ample attention to this topic as it's vital that our meeting attendees are educated about the latest developments in these areas and that legislators can take steps to form policy to improve the health of their constituents.

I cannot emphasize enough how important it is that we as legislators remain engaged with our colleagues around the country on the unique but often similar insurance issues we are dealing with in our respective states. This is especially true at a time when federal encroachment into the state-based system of insurance regulation has reached arguably unprecedented heights.

For example, the Federal Housing Finance Agency (FHFA) announced a "Title Acceptance Pilot" which would permit title insurance obtainment requirements to be waived in certain transactions. While I applaud the FHFA for wanting to address the rising cost of homeownership, the Pilot completely disregards the McCarran-Ferguson Doctrine and the strong record of title insurance consumer protections at the state level. Accordingly, NCOIL sent a letter to the FHFA highlighting our concerns which can be viewed on page 3 of this newsletter. This is just one of many recent actions NCOIL has had to take to defend the proven state-based system of insurance regulation.

The state-based system has led to the strongest and most competitive insurance market in the world and I look forward to working with you all throughout this year and beyond to make sure that remains the case.

In closing, I'd like to thank you all for your participation with NCOIL so far this year and I hope to see you all in Costa Mesa.



Rep. Edmond Jordan, LA  
Secretary

## NCOIL Property & Casualty Insurance Committee Interim Meeting

Oklahoma Representative Forrest Bennett has called an interim Zoom meeting of the NCOIL Property & Casualty Insurance Committee on Friday, June 14th at 12:00 p.m. ET/11:00 a.m. CT/10:00 a.m. MT/9:00 a.m. PT.

Items on the agenda will include:

- Continue discussion and vote on the NCOIL Catalytic Converter Theft Prevention Model Act, sponsored by Rep. Tom Oliverson (TX), M.D. NCOIL President;
- Continue discussion on the NCOIL Strengthen Homes Program Model Act, sponsored by Rep. Jim Dunnigan (UT);
- Discuss the proposed "Title Acceptance Pilot" from Federal Housing Finance Agency (FHFA); and
- Provide an opportunity for discussion and comments on the NCOIL Model Laws scheduled for re-adoption at the upcoming NCOIL Summer Meeting in July. Those Models are:
  - Model Act Regarding Use of Claims History Information – adopted 7/8/05; re-adopted 11/20/11; 12/13/19
  - Model Act Concerning State Interpretation of State Insurance Laws – adopted 7/13/19
  - State Flood Disaster Mitigation and Relief Model Act – adopted 11/21/03; amended 7/13/08; readopted 7/13/19

You can register for the meeting and view all of the materials for discussion [here](#).



Rep. Deborah Ferguson DDS, AR  
Immediate Past President

## Future NCOIL Meetings:

Summer 2024  
July 17-20  
Costa Mesa, CA  
Westin South Coast  
Plaza

Annual 2024  
November 21-24  
San Antonio, TX  
The Westin Riverwalk

Spring 2025  
April 24-27  
Charleston, SC  
Francis Marion Hotel

Summer 2025  
July 16-19  
Chicago, IL  
Renaissance Chicago  
Downtown Hotel

## NCOIL Response to FHFA Title Acceptance Pilot

NCOIL President Rep. Tom Oliverson, M.D. (TX), recently sent a letter to the Federal Housing Finance Agency (FHFA) regarding announcement of a "Title Acceptance Pilot" outlining NCOIL's concerns about the Pilot and the FHFA's attempt to encroach into the state-based system of insurance regulation. A full copy of the letter appears below.

Dear Director Thompson:

I write to you today regarding the Federal Housing Finance Agency's (FHFA) announcement of a "Title Acceptance Pilot" (Pilot) which would permit title insurance obtainment requirements to be waived in certain transactions. The National Council of Insurance Legislators (NCOIL) is deeply concerned by this proposal as it represents yet another example of unnecessary and unauthorized federal encroachment on the States' authority to regulate the business of insurance pursuant to the McCarran-Ferguson Doctrine (15 U.S.C.A. § 1011 et seq.). Accordingly, we oppose implementation of the Pilot.

NCOIL is a national legislative organization with the nation's 50 states as members, represented principally by legislators serving on their states' insurance and financial institutions committees. NCOIL writes Model Laws in insurance and financial services, works to preserve the State jurisdiction over insurance as established by the McCarran-Ferguson Act over seventy years ago, and to serve as an educational forum for public policymakers and interested parties. Founded in 1969, NCOIL works to assert the prerogative of legislators in making State policy when it comes to insurance and educate State legislators on current and longstanding insurance issues.

To begin with, the Pilot comes at a time when federal encroachment onto the state-based system of insurance regulation is reaching arguably unprecedented heights. In recent years, the state-based system of insurance has encountered encroachment in areas such as:

- the Department of Labor's new Fiduciary Rule
- the Federal Trade Commission's proposals regarding service contracts and non-compete agreements;
- the tri-agency proposed rule regarding matters such as short-term limited duration insurance; and
- the Internal Revenue Service's proposed rule regarding captive insurers

Accordingly, against that backdrop, I write with a strong level of frustration regarding the FHFA's Pilot which arguably surpasses each of the abovementioned examples of federal encroachment by leaps and bounds.

Putting aside the jurisdictional issues with the Pilot, there are also several other troubling matters. First, title insurance is an important part of the proven state-based system of insurance, a system that has effectively protected consumers and helped create the largest, most competitive and innovative insurance market in the world. For decades, title insurance has helped protect property owners and lenders against future claims for any title defects in the title to the property. Claims can arise as a result of fraud, forgery, unpaid real property taxes, judgments, liens, or other encumbrances that were not discovered during a search of the property's title history conducted before the sale. Rather than recognizing and embracing this strong record of consumer protections at the state level, the Pilot seeks to insert a Government Sponsored Enterprise (GSE), Fannie Mae, that has no experience in the title insurance area into critically important consumer financial transactions<sup>1</sup>.

<sup>1</sup>I note that the inexperience and inadequateness of the GSEs in the title insurance arena was acknowledged by former Acting FHFA Director during the Obama Administration and current President of the Housing Policy Council, Ed DeMarco, during a May 17, 2023 hearing "It certainly is disturbing to think that Fannie Mae or Freddie Mac might displace title insurance by taking on this insurance itself...Frankly, the GSEs simply do not belong in the primary market." - <https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=408776>

## Future NCOIL Meetings:

Annual 2025  
November 10-15  
Atlanta, GA  
The Whitley Hotel

Spring 2026  
Louisville, KY  
The Hyatt Regency

Summer 2026  
July 15-18  
Boston, MA  
Westin Copley Place

Annual 2026  
TBD

## NCOIL Response to FHFA Title Acceptance Pilot (cont'd)

Next, the Pilot does not appear to have followed the proper procedures as set forth in the rule which the Pilot stems from - the "Prior Approval for Enterprise Products" final rule. Said rule was created so that Pilots such as this one could be discussed in an open forum and allow for a notice and comment period. We see no evidence of compliance with that process.

The Pilot also appears to seriously jeopardize the small business community. According to the American Land Title Association (ALTA), over 90% of the title industry is comprised of small businesses. I know in my home state of Texas, title insurance absolutely aligns with the theme of small business empowerment. Having a GSE that is currently under federal conservatorship interfere with such an important component of the small business community is very troubling.

Returning to the jurisdictional concerns from the beginning of the letter, I note that Congress established the FHFA via the Housing and Economic Recovery Act of 2008 (HERA), as is its right. While Congress gave to the States the authority to regulate the "business of insurance" in the McCarran-Ferguson Act of 1945, Congress did reserve for itself the right to pass laws relating to insurance. However, HERA is silent on insurance which signifies that Congress, in passing HERA, had no intention to step in and regulate the "business of insurance."

Accordingly, while Congress could have, either through HERA or another law, decided to enact legislation concerning title insurance, it ultimately left that aspect of insurance regulation untouched and remaining under the state's regulatory authority. It is therefore such an extreme affront to the state-based system of insurance regulation that the "Pilot" comes from a federal regulatory agency, following no intent from Congress to regulate the "business of insurance."

The FHFA has concerns with the rising costs of homeownership, and I applaud the FHFA for recognizing that problem. However, the FHFA goes too far in its attempt to deal with its concerns with the Pilot. It seeks to assert itself into the title insurance marketplace, which it cannot do. The title insurance marketplace constitutes the very heart and core of the "business of insurance" and as such shall be "regulated by the States." Congress did not give the FHFA the authority to issue the Pilot with the force of law that "specifically relates to the business of insurance," but rather saved such authority for itself via its legislative prerogative.

We at NCOIL urge the FHFA to retract the Pilot and return to the drawing board to address its stated concerns with our nation's housing affordability crisis in a way that is narrow, tailored, and most importantly does not violate the McCarran-Ferguson Doctrine by infringing on the Congressionally-delegated rights of the States to regulate the business of insurance.

Very truly yours,



Tom Oliverson, M.D.  
Texas State Representative  
NCOIL President

<sup>20</sup>Silence on the part of the Congress shall not be construed to impose any barrier to the regulation . . . of such business by the several States"; 15 U.S.C. § 1012(a); "The business of insurance...shall be subject to the laws of the several States which relate to the regulation...of such business."; 15 U.S.C. § 1012(b); "No Act of Congress shall be construed to invalidate, impair, or supersede any law enacted by any State for the purpose of regulating the business of insurance, or which imposes a fee or tax upon such business, unless such Act specifically relates to the business of insurance."



**SPRING MEETING MINUTES**

**CLICK HERE FOR MORE INFO**

## Honoring Mental Health Awareness Month:

During Mental Health Awareness Month, NCOIL recognizes the importance of quality mental healthcare and its impact on one's overall wellbeing. Now more than ever, it is crucial to ensure that individuals have access to coverage for the care they need.

At its upcoming Summer National Mtg., NCOIL will continue to discuss development of the NCOIL Mental Health Parity Model Act sponsored by KY Rep. Rachel Roberts, which will help States do just that.

## REGISTRATION FOR NCOIL SUMMER MEETING IS OPEN

Registration for the 2024 NCOIL Summer Meeting at the Westin South Coast Plaza in Costa Mesa, CA from July 17th—20th is open.



For registration information please click [here](#)

See the meeting schedule on page 7 or view at the NCOIL website [here](#)

**DON'T FORGET TO BOOK YOUR HOTEL!!!**

**The hotel block closes on June 20th**

Legislators book here:



General Participants book here:



**Reminder that Contributing States are eligible for two legislator stipends per National Meeting to help underwrite the cost of participating.**

**Click below for more information**

**Please reach out to Pat Gilbert at [pgilbert@ncoil.org](mailto:pgilbert@ncoil.org) with any questions**

**LEGISLATOR STIPENDS NOW AVAILABLE FOR CONTRIBUTING STATES**

**CLICK HERE FOR MORE INFORMATION**

## Honoring AANHPI Heritage Month:

As May marks Asian American, Native Hawaiian, and Pacific Islander Heritage Month, NCOIL celebrates this year's theme "Advancing Leaders Through Innovation" honoring all that the trailblazing Leaders of the AANHPI community have done to shape our society & contribute to our future.

## NCOIL Summer Meeting: Models to be Considered for Re-Adoption

At the upcoming 2024 NCOIL Summer Meeting, per NCOIL Bylaws, the following Models are up for consideration for re-adoption:

- [NCOIL Model Act Regarding Use of Claims History Information](#) (To be considered for re-adoption by the Property-Casualty Insurance Committee)
- [NCOIL Model Act Concerning Interpretation of State Insurance Laws](#) (To be considered for re-adoption by the Property-Casualty Insurance Committee)
- [NCOIL State Flood Disaster Mitigation & Relief Model Act](#) (To be considered for re-adoption by the Property-Casualty Insurance Committee)
- [NCOIL Model Act Concerning Workers' Compensation Drug Formulary Act](#) (To be considered for re-adoption by the Workers' Compensation Insurance Committee)

Please submit any comments regarding the re-adoption of these Models to NCOIL General Counsel, Will Melofchik at [wmelofchik@ncoil.org](mailto:wmelofchik@ncoil.org).

## NCOIL Financial Services & Multi-Lines Issues Committee Interim Meeting

The NCOIL Financial Services & Multi-Lines Issues Committee, chaired by WI Sen. Mary Felzkowski, recently held an interim Zoom meeting. The purpose of the meeting was for the Committee to continue discussion on the NCOIL Transparency in Third Party Litigation Financing Model Act, sponsored by Rep. Matt Lehman (IN), past NCOIL President, and co-sponsored by Del. Steve Westfall (WV), as well as the NCOIL Earned Wage Access Model Act, sponsored by Asw. Pam Hunter (NY), NCOIL Vice President.

A recording of the meeting will be posted [here](#).

## NCOIL One on One

NCOIL One on One Interview with Ohio Representative Brian Lampton is out now. Click the link [here](#) to check it out!

Interested in learning more about other NCOIL participants? Visit the link [here](#) to see past NCOIL One on One Interviews.

- IN Rep. Matt Lehman
- NY Asw. Pam Hunter
- OH Sen. Bob Hackett
- AR Rep. Deborah Ferguson
- ND Sen. Jerry Klein
- LA Rep. Edmond Jordan
- CA Asm. Ken Cooley
- TX Rep. Tom Oliverson
- NV Asw. Maggie Carlton
- MN Sen. Paul Utke
- MI Rep. Brenda Carter
- WV Del. Steve Westfall
- SC Rep. Carl Anderson
- NC Sen. Vickie Sawyer
- IN Sen. Travis Holdman
- OK Rep. Forrest Bennett
- CT Rep. Tammy Nuccio
- MS Sen. Walter Michel
- KY Rep. Rachel Roberts
- UT Rep. Jim Dunnigan
- NJ Sen. Nellie Pou
- ND Sen. Shawn Vedaa
- RI Sen. Roger Picard
- WI Sen. Mary Felzkowski
- NY Sen. Neil Breslin
- LA Ins. Cmsr. Jim Donelon
- KY Rep. Sarge Pollock
- OK Rep. Eilyn Hefner
- Charise Richard, PhRMA
- MI Sen. Lana Theis

## Don't Miss the NCOIL YouTube Channel: Subscribe Today

Weren't able to attend our past meetings? Good news— you can visit our YouTube channel for recordings of past meetings. Prior national meeting sessions and interim committee meetings are posted on our YouTube channel now. Visit the link [here](#) to subscribe and keep up to date on all things NCOIL!

## 2024 NCOIL Summer Meeting Schedule

**Things to See in  
Costa Mesa:**

**California  
Scenario**

**Fairview Park**

**Heroes Hall  
Museum**

**The LAB**

**Orange County  
Beaches**

**Orange County  
Museum of Art**

**Pacific  
Amphitheatre**

**South Coast  
Plaza**

### WEDNESDAY, JULY 17TH

NCOIL & Institutes Griffith Foundation Legislator Workshop <i>***Open to Legislators Only***</i>	1:00 PM	-	4:00 PM
Budget Committee	4:00 PM	-	4:30 PM
Audit Committee (Members Only)	4:30 PM	-	5:00 PM
Welcome Reception	6:00 PM	-	7:00 PM

### THURSDAY, JULY 18TH

Welcome Breakfast	8:15 AM	-	9:45 AM
Networking Break	9:45 AM	-	10:00 AM
Joint State-Federal Relations & International Insurance Issues Committee	10:00 AM	-	11:30 AM
General Session	11:30 AM	-	1:00 PM
The Institutes Griffith Foundation Legislator Luncheon	1:00 PM	-	2:00 PM
Health Insurance & Long Term Care Issues Committee	2:00 PM	-	3:45 PM
Networking Break	3:45 PM	-	4:00 PM
Financial Services & Multi-Lines Issues Committee	4:00 PM	-	5:30 PM
CIP Member & Sponsor Reception	6:00 PM	-	7:00 PM

### FRIDAY, JULY 19TH

Workers' Compensation Insurance Committee	9:15 AM	-	10:30 AM
Networking Break	10:30 AM	-	10:45 AM
NCOIL—NAIC Dialogue	10:45 AM	-	12:00 PM
Luncheon with Keynote Address	12:00 PM	-	1:30 PM
General Session	1:30 PM	-	3:00 PM
Life Insurance & Financial Planning Committee	3:00 PM	-	4:30 PM
Articles of Organization & Bylaws Revision Committee	4:30 PM	-	5:00 PM
CIP Member & Sponsor Reception	6:00 PM	-	7:00 PM

### SATURDAY, JULY 20TH

The Institutes Griffith Foundation Legislator Breakfast	8:00 AM	-	9:00 AM
General Session	9:00 AM	-	10:30 AM
Networking Break	10:30 AM	-	10:45 AM
Property & Casualty Insurance Committee	10:45 AM	-	12:30 PM
Executive Committee	12:30 PM	-	1:00 PM