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National Council of Insurance Legislators (NCOIL)

Resolution Affirming U.S. State-Based Regulation of Artificial Intelligence in Insurance Consistent with the McCarran-Ferguson Act

**Draft as of February 19, 2026.*

**To be discussed during the interim meeting of the Joint State-Federal Relations & International Insurance Issues Committee on March 12, 2026.*

**Sponsored by Asm. Erik Dilan (NY)*

WHEREAS, in 1945, Congress enacted the McCarran-Ferguson Act, 15 U.S. C. §§ 1011-105, affirming that the regulation and taxation of the business of insurance by the states is in the public interests and that federal law shall not preempt state insurance law unless such law specifically relates to the business of insurance; and

WHEREAS, since that time, States have consistently exercised primary authority over the business of insurance in a manner that protects policyholders, ensures insurer solvency, and promotes fair, competitive and stable insurance markets; and

WHEREAS, this framework has formed the U.S. state-based system of insurance regulation which has effectively protected consumers, and has helped create the largest, most competitive and innovative insurance market in the world; and

WHEREAS, Congress has repeatedly affirmed the primacy of state-based insurance regulation, including most recently in the Dodd-Frank Act of 2010; and

WHEREAS, the state-based system of insurance regulation has consistently adapted to advances in technology throughout the years in ways that are efficient and protective of consumers and the insurance marketplace alike; and

WHEREAS, artificial intelligence has increasingly been deployed by insurers in areas such as sales, marketing, underwriting, rating, claims handling, fraud detection, customer engagement, and customer service; and

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WHEREAS, the use of artificial intelligence in insurance presents both opportunities for great efficiency and innovation, and risks relating to things such as opacity, data governance, and overall consumer protections; and

WHEREAS, continued respect for state legislative and regulatory authority over the business of insurance promotes certainty, consumer protection, and market stability while avoiding duplicative and/or unnecessary federal action; and

WHEREAS, state insurance legislators and regulators possess the authority, subject-matter expertise, established frameworks, and enforcement mechanisms uniquely suited to develop policy overseeing insurer use of artificial intelligence; and

WHEREAS, there has been a concerning trend at the federal level to seek to wrongly curtail state legislators' ability to develop policy surrounding artificial intelligence and insurance, such as the 10-year moratorium on state legislative and regulatory authority over artificial intelligence that has been proposed by Congress, and the recently signed, constitutionally questionable, Executive Order that aims to preempt state legislation and regulation of artificial intelligence; and

WHEREAS, NCOIL believes that it is vital that state legislators have the ability to develop policy and laws that protect their constituents, many of whom have been steadfast in asking for consumer safeguards against the current unknowns surrounding artificial intelligence; and

WHEREAS, absent any affirmative Act from Congress relating specifically to the business of insurance, states retain their authority to legislate and regulate within the business of insurance pursuant to the McCarran-Ferguson Act as established by Congress over 80 years ago; and

WHEREAS, there being no affirmative Act from Congress to legislate insurer use of artificial intelligence;

NOW, THEREFORE, BE IT RESOLVED, that NCOIL encourages states to:

- take appropriate steps, which may include the enactment of legislation, to protect consumers while not hindering innovation and impeding the benefits that artificial intelligence can offer, and to ensure proper legislative oversight of its regulators in the realm of insurance;
- legislate and regulate insurer use of artificial intelligence in a principles-based manner that promotes innovation, transparency, accountability, data integrity, fair discrimination, and consumer protections consistent;
- coordinate and harmonize legislative, regulatory, and educational efforts surrounding artificial intelligence and insurance to promote consistency while preserving state flexibility to address local market conditions;

AND, BE IT FINALLY RESOLVED, that a copy of this resolution will be distributed to the Senate Majority Leader, the Senate Minority Leader, the Speaker of the House, the House Minority

Leader, the Senate Banking Committee Chairman, the Senate Banking Committee Ranking Member, the House Financial Services Committee Chairman, the House Financial Services Committee Ranking Member, federal and state insurance legislators and regulators, the Financial Stability Board, the International Association of Insurance Supervisors, the Federal Insurance Office, the Department of Treasury, the Federal Reserve Board, and other interested parties.