NCOIL
National Conference of Insurance Legislators
...for the states

PRESIDENT: REP. GEORGE KEISER, ND
PRESIDENT-ELECT: SEN. CARROLL LEAVELL, NM
VICE PRESIDENT: SEN. VI SIMPSON, IN
SECRETARY: REP. CHARLES CURTISS, TN
TREASURER: REP. GREG WREN, AL

November 9, 2011

Representative Judy Biggert, Chair
U.S. House Committee on Financial Services
Subcommittee on Insurance, Housing & Community Opportunity
2113 Rayburn House Office Building
Washington, DC 20515

Dear Chairperson Biggert:

As NCOIL president, I am pleased to provide comments for your November 16 hearing on *Insurance Oversight and Legislative Proposals*.

As state lawmakers with a sole focus on insurance public policy, NCOIL believes strongly in our state-based system of insurance regulation. We have worked hard to promote regulatory modernization in certain key areas and will continue to advocate strategies that protect insurance consumers while making regulation more efficient and effective.

NCOIL in 2008, 2009, and 2010 made the case for continued state regulation as Congress considered bills that evolved into the Dodd-Frank Act (DFA). State lawmakers argued that the relative success of the insurance market throughout the financial crisis evidenced the strength of the state system and proved that insurance should not be swept into the broader reform package. Indeed, NCOIL opposed the establishment of the Federal Insurance Office (FIO) because, in part, its scope of authority was seemingly drawn to extend beyond that of an informational office. While we remain concerned about possible FIO mission creep, this letter will focus on other areas of the DFA that I understand your hearing will address.

Systemically Important Financial Institutions (SIFIs)

NCOIL has consistently argued that insurance companies in general should not be viewed as SIFIs and should not be subject to duplicative and "heightened" Federal Reserve regulation. In March 2010, lawmakers unanimously adopted a resolution that declared, "insurance activities in general do not create systemic risk to the rest of the financial system or the U.S. economy at large, because of the industry's low concentration, low barriers to entry and policyholder and beneficiary protection through the state rehabilitation, insolvency and guaranty fund system."

State legislators historically have enacted, and continue to enact, strong financial solvency and consumer protection laws that should not be interrupted by new federal strictures. We fear that subjecting companies to another level of supervision would jeopardize the ability of the states to continue providing robust solvency protection and could present insurers with additional compliance costs that would ultimately be felt by the insurance-buying public.

Liquidation Authority

To ensure that consumers are protected in instances when insurance companies fail, state legislators and regulators have cooperatively developed processes to rehabilitate and, when necessary, resolve failing insurers. NCOIL legislators appreciate that under Dodd-Frank troubled insurers would continue to be directed to state guaranty fund mechanisms. We believe that state regulators, acting in accordance with state law, are best-suited to address troubled insurers.

Regarding SIFI liquidation costs, NCOIL argued during DFA debates that since failing insurers would be directed to state mechanisms—which typically provide for post-event funding from the industry—insurers should not be required to also contribute to the federal liquidation system. Such double-dipping seemed inherently unfair as it would increase costs on insurers to fund a system not used by the industry.

EXECUTIVE DIRECTOR: SUSAN F. NOLAN NATIONAL OFFICE: 385 JORDAN ROAD, TROY, NY 12180; TEL: 518-687-0178; FAX: 518-687-0401 WEBSITE: WWW.NCOIL.ORG
E-MAIL: INFO@NCOIL.ORG WASHINGTON OFFICE: 601 PENNSYLVANIA AVENUE, NW, SUITE 900, SOUTH BUILDING, WASHINGTON, DC 20004; TEL: 202-220-3014; FAX: 202-330-5004

FIO Data Collection

Though NCOIL has no formal position on FIO subpoena power, it is hard to imagine a circumstance where it would be necessary or warranted, as insurance information can be found without subpoena use through state, federal, and public sources. State law requires insurers to submit extensive amounts of data to state insurance departments and/or to the National Association of Insurance Commissioners (NAIC). As Members of Congress have stated that their intent was that FIO serve as a source of insurance information for the federal government, subpoena authority may provide an opportunity for mission creep without offering any tangible benefits.

NCOIL hopes that you find these comments helpful as you investigate Dodd-Frank Act impacts on insurance oversight. We encourage you to view NCOIL as a resource should you have any questions.

Best regards,

George Keiser

Rep. George Keiser, ND
NCOIL President

K/NCOIL/2011DOCS/2007537b