

NCOIL Alert -- New Far-Reaching OFC Bill Unveiled

DATE: APRIL 2, 2009
TO: NCOIL LEGISLATORS
FROM: SUSAN NOLAN, NCOIL
RE: **NEW FAR-REACHING OFC BILL UNVEILED**

Linked below is the following information:

- [Federal Regulation May Be Mandated for Some Insurers \(4/2 Business Insurance\)](#)
- [The National Insurance Consumer Protection Act \(Draft\)](#)

COMMENTARY

We have learned that U.S. Congresswoman Melissa Bean (D-IL) and Ed Royce (R-CA) will soon introduce OFC legislation giving more authority than previous OFC bills. The new bill—The National Insurance Consumer Protection Act—would allow all insurance companies to choose federal charter and would also mandate federal oversight of “systemically important” institutions.

NCOIL ACTIVITY

NCOIL, NCSL, and CSG are sending a joint letter to Chairmen Barney Frank (D-MA) and Christopher Dodd (D-CT) and Congressional Committee Members in order to strengthen our opposition of an OFC Capitol Hill. The letter expresses our organizations’ strong rejection of OFC or any legislation that would preempt state authority, though it does not specifically address the new Bean/Royce legislation. As you know, NCOIL has been a strong and vocal opponent of OFC proposals and has sent numerous letters and resolutions to Members of Congress outlining the many negative impacts of such initiatives

NATIONAL INSURANCE CONSUMER PROTECTION ACT

GENERAL

Among other things the legislation would:

- Establish an Office of National Insurance (ONI)—headed by a National Insurance Commissioner—at the U.S. Department of Treasury
- Provide insurers, agencies, and producers the option of being federally regulated by the ONI.
- Preempt most state insurance laws as they relate to national insurers, agencies, and producers.
- Grant the Commissioner broad authority to establish financial, policy, and market conduct standards for national insurers and national insurance agencies.
- Intend to preserve state authority to collect premium taxes and assessments on national insurers and agencies.

PROPOSED NEW AUTHORITY

Provisions not included in previous OFC bills would:

- Create a Division of Consumer Affairs within the ONI and authorize the Commissioner to establish a Division of Consumer Affairs in each State.
- Create a process of systemic risk regulation whereby:
 - The President would designate a federal agency as the systemic risk regulator—a separate entity from the ONI.
 - The systemic risk regulator would be authorized to request information on covered institutions, participate in company examinations, restrict, prohibit, or take action to prevent or mitigate actions that could have serious adverse effects on the economy, and determine what institutions are “systemically important.”
- State-regulated insurance companies could be deemed “systemically important” and within the scope of the systemic regulator.
- Create a Coordinating National Council for Financial Regulators as a forum for information sharing among regulators. The Council would have no independent or regulatory authority and its members would include: Treasury Secretary (Chair), and representatives of the Fed, SEC, CFTC, OCC, OTS, FDIC, ONI and three presidential appointees from among state banking, insurance, and securities regulators. (*The Section of the legislation describing the Council is attached.*)
- Create a National Insurance Guaranty Corporation to act as a conservator or receiver in the event of company insolvency. For the time being, national insurers would be required to participate in state guaranty associations.
- Require the Commissioner to take “into consideration standards, models, practices, and instructions established by the NAIC ” when establishing financial, policy, and market conduct standards and in relation to guaranty funds.