



National Association of Insurance Commissioners

July 8, 2008

The Honorable Paul Kanjorski
Chairman, Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises
House Financial Services Committee
2188 Rayburn House Office Building
Washington, DC 20515

The Honorable Deborah Pryce
Ranking Member, Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises
House Financial Services Committee
320 Cannon House Office Building
Washington, DC 20515

Dear Chairman Kanjorski and Ranking Member Pryce:

We are writing to express the views of the National Association of Insurance Commissioners (NAIC) on the Manager's Amendment to H. R. 5840, the Insurance Information Act of 2008.

State Insurance Commissioners have a long and proven record of success in regulating the business of insurance. Our system of State regulation in the United States has produced the largest and most competitive insurance market in the world, while maintaining a high level of consumer protection. State Insurance Commissioners are extremely wary of any Federal involvement in insurance. We have seen what ERISA and other Federal preemption has done to the health insurance market and to consumer protections, and we do not want to spread that level of dysfunction to the rest of the insurance arena. For these reasons, we reviewed the Insurance Information Act of 2008 with great caution.

In testimony before this Subcommittee on June 10, 2008, Illinois Insurance Director Michael McRaith expressed the NAIC's conditional support for H.R. 5840, provided that certain improvements be made.

The amendment improves the bill by specifying the applicability of the Administrative Procedures Act to the legislation's provisions, and we support the addition of similar language regarding the Freedom of Information Act. We are also pleased that the Manager's Amendment clarifies that the Office of Insurance Information created by the legislation will not have regulatory authority over the "business of insurance" as well as over "any insurer." Other clarifications, such as the requirement to stay preemption where appropriate, are also improvements.

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At the June 10 hearing, we asked that the term “agreements” be more tightly defined to ensure that State consumer and solvency protections are preserved and to clarify which entities have authority to negotiate international agreements covered under the proposed legislation. In your Subcommittee’s hearings on insurance reform and on this bill there were numerous discussions about the need for the United States to be able to strike agreements to increase access by American insurance companies to foreign markets. We support that goal, but the lack of a definition of “agreement” leaves open the possibility of international agreements being used for other purposes, and possibly eroding consumer protections. While we understand the difficulties involved in attempting to provide a precise definition, we fear that the absence of any such definition could have potentially negative repercussions for insurance consumers. We strongly encourage you to modify the agreements language. We would suggest that the bill include language defining the scope of agreements to enhance the ability of insurers and reinsurers domiciled in any of the United States or territories to expand access to foreign markets, while maintaining consumer protections domestically. The level of agreements would not be limited to trade agreements, but would provide a sufficient limit on the scope of agreements to ensure that any future U.S. regulatory reform agenda is not being driven by the negotiation priorities of foreign governments. The support of the NAIC is conditioned on an acceptable tightening of the definition and scope of the term “agreements.”

The NAIC supports the provisions that allow for confidential information sharing among the NAIC, individual States, and the Federal government. The NAIC also recognizes the Constitutional limitations of the States in binding the entire United States in international agreements.

Some Members of Congress and industry lobbyists have made claims that this bill is the first step to an “optional Federal charter” for insurance (OFC). Every Insurance Commissioner strongly believes that an OFC is the worst possible public policy choice for insurance. An OFC would decimate consumer protections via arbitrage, would damage the world’s most competitive insurance market and would result in a massive expansion of the Federal government. The NAIC unequivocally opposes any attempts to use this bill as a vehicle for such a misguided policy.

Chairman Kanjorski and Ranking Member Pryce, your openness to our concerns and the highly professional manner in which your staff have worked on this bill are exemplary and for these things we thank you.

Sincerely,



Sandy Praeger
President
National Association of Insurance Commissioners

cc: Hon. Dennis Moore
Hon. Melissa Bean
Hon. Ed Royce