



NATIONAL CONFERENCE *of* STATE LEGISLATURES

*The Forum for America's Ideas*

**EXECUTIVE COMMITTEE TASK FORCE TO STREAMLINE  
AND SIMPLIFY INSURANCE REGULATION**

**REPORT TO THE NCSL EXECUTIVE COMMITTEE**

**Friday, October 4, 2002  
Ogunquit, Maine**

**OVERVIEW**

The NCSL Executive Committee established the Task Force to Streamline and Simplify Insurance Regulation in August 2001 with the charge to explore the issues that confront state insurance regulation in the changing financial marketplace and, if necessary, to develop and review draft legislation for state consideration. The Task Force, which was reauthorized for one year at the NCSL Annual Meeting in Denver, Colorado, has three primary objectives.

- To preserve the primacy of state insurance regulation against congressional and industry efforts to establish a federal insurance regulator and preempt state insurance and consumer protection laws
- To consider reforms that would allow insurance companies to compete more effectively in the integrated financial marketplace and to respond with innovation and flexibility to evermore demanding market forces
- To maintain and improve strong consumer protections, which are the hallmark of the state regulatory system

Insurance serves as the cornerstone of the economy. It provides economic security for individuals and families and allows businesses to take the risks that are inherent in economic activity. Where the other financial services of banking and securities are about access to capital and risk-taking, insurance is about guarantees—promising to pay claims if and when benefits are due, years into the future, no matter what. And if the unthinkable occurs—as it did on Sept. 11, 2001—insurance is there to provide money to rebuild and to cover economic loss.

Over a century of state insurance regulation has proven that states effectively protect consumers and make certain that promises made by insurers are kept. State regulation ensures that insurance rates are fair, adequate and not excessive; that policy language is clear and includes what it should; that insurers are financially sound; that claims are paid; and that consumer complaints are investigated. State regulators are accessible and accountable to the public and sensitive to local economic and social conditions. Moreover, state regulation allows state legislatures to set policies that directly affect state markets and empowers individual lawmakers to step in, when needed, to help constituents.

State insurance regulation is also a substantial state revenue source. In 2000, states collected \$10.5 billion from insurance taxes, fees and fines. Of this amount, 88 percent went to state general funds. Federal regulation could preempt or diminish this source of revenue (see attachment A).

## **FEDERAL ACTION**

Current federal interest in insurance regulation began with the Financial Modernization Act of 1999—also called Gramm-Leach-Bliley—which established a comprehensive framework to permit affiliations among banks, securities firms and insurance companies. Although states have met the federal mandates of the act, Congress—encouraged by industry—continues to pressure states to go further to streamline, simplify and coordinate state insurance regulation. The U.S. House of Representatives Financial Services Committee has held regular hearings on insurance regulatory reform—and promises more—and U.S. Senator Charles Schumer of New York has introduced legislation that would create an optional federal insurance regulator and would permit companies to bypass state insurance and consumer protection laws.

## **TASK FORCE ACTION**

The Task Force has worked closely with state insurance regulators, who—through the National Association of Insurance Commissioners (NAIC)—already have responded with considerable vigor to federal and industry pressure for more effective and responsive insurance regulation. The NAIC’s leadership participates in Task Force discussions and continues to keep legislators informed on their progress in the many areas of reform. The Task Force also has received invaluable input, assistance, research and advice from the National Conference of Insurance Legislators (NCOIL).

The Task Force during its first year has engaged broad policy issues and explored possible legislative action. Work has centered on two major issues. The first is product regulation reform—often called “speed to market.” The second is market regulation reform.

### **Speed to Market Issues**

The changing financial marketplace demands “speed to market” reforms to allow insurance companies to market products nationally within a reasonable time period to compete more effectively in the integrated financial marketplace. Different issues pertain to life insurance and property/casualty (P/C) insurance.

***Life insurance.*** The Task Force is reviewing an NAIC proposal to establish an interstate insurance compact to develop uniform national standards for annuity, life insurance, disability income and long-term care insurance products and to receive, review and give appropriate regulatory approval to product filings. The integrated financial marketplace acutely affects life insurers, whose policies increasingly have evolved into long-term investment products that face direct competition from the products of banks and securities firms. The current 50-state product approval system requires greater time and expense for life insurers to market their products nationally when compared to federally regulated competitors. This is the principal reason that life insurers now pursue federal insurance regulation.

The NAIC believes that an interstate compact is the right mechanism to address legitimate industry concerns and to preserve and improve state consumer protections. It would allow states to jointly develop uniform product standards and more efficiently review and approve products to be sold nationally. It would continue to require life insurers to obtain approval for their products before they are sold, would retain state authority to protect consumers after a product is sold and would

ensure consistent safeguards when holders of these long-term investment policies move from state to state.

The Task Force worked with the NAIC on the compact over the summer and offered guidance on key issues, such as legislative involvement and the composition of the management committee. The NAIC is expected to finalize and endorse a compact proposal before the Nov. 5 elections. The Task Force will explore the NAIC proposal in the months ahead and could make a recommendation on the compact to the NCSL Executive Committee for its consideration in 2002.

***P/C insurance.*** The Task Force also has begun to review proposals to reform product regulation systems for P/C insurance. P/C insurance includes both personal lines—such as auto and homeowners insurance—and commercial insurance bought by businesses.

Most states currently have what are called “prior approval” systems that require regulators to approve in advance the rates that insurers can charge and the forms—the actual policy contracts—that they can sell. These systems were developed in the early 20th century principally to protect against inadequate rates—a concern now addressed through uniformly adopted financial solvency regulations. Insurers, agent groups and most commissioners favor “market-based” regulation—or an approach that emphasizes the use of competitive markets to regulate products. However, insurers, agent groups and commissioners disagree on many aspects of market-based reforms, especially rate regulation, and many consumer groups continue to support prior approval systems.

The Task Force has examined two proposals to address P/C insurance “speed to market” issues. An NAIC commercial lines model law would rely on a presumption that rates in a competitive market are not excessive and would require regulators to review and approve forms within 30 days. The commissioner would be required to evaluate competition each year and would retain the authority to act if a product was shown to be out of line or unfair. Rates would be filed with the commissioner and could be denied if not actuarially sound. The NAIC model does not address personal lines.

A competing NCOIL model would rely on a presumption that rates are not excessive in a competitive market for commercial and personal lines. It does not address form regulation. Insurers would not need to file commercial rates, and personal rates would have to be filed within 30 days of their use by companies. The commission would retain the authority to disapprove rates that are inadequate or unfair or that are excessive following a ruling that the market is noncompetitive.

### **Market Regulation Reform**

Market regulation reform represents a key component of “market-based” systems—as states shift regulatory emphasis from product approval process to greater oversight of how companies conduct themselves in the marketplace. The Task Force has begun to examine the significant reform efforts already launched by state regulators to enhance market analysis functions, to improve market conduct exams and to increase interstate cooperation. This effort has been guided by a 2000 NCOIL market conduct study that found duplication of exams, under-trained examiners and no dedicated market conduct units in some states.

The Task Force continues to explore possible legislative action to help regulators monitor market competition and company practices; to promote more efficient, effective and uniform market conduct exams; and to coordinate market conduct activities in an effort to reduce redundancies and stretch resources. NCOIL also is engaged in a second and final market conduct study.