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Sent by e-mail only

September 2, 2004

The Honorable Senator Steven Geller
NCOIL President
Florida State Office Building, Room 406,
404 South Monroe Street
Tallahassee, FL 32399

The Honorable Senator James Seward
Chair, NCOIL State-Federal Relations Committee
Legislative Office Building, Room 917,
Albany, NY 12247

Re: NCOIL Market Conduct Surveillance Model Law

Dear Senators Geller and Seward:

The National Association of Mutual Insurance Companies (NAMIC) and its more than 1,350 member companies would like to offer the following comments with respect to the NCOIL Market Conduct Surveillance Model Law.

As we indicated at the NCOIL summer meeting, NAMIC staff did not believe we were in a position to publicly comment on the July 16 amendments made to the NCOIL model until we had an opportunity to confer with our member companies. We conducted a conference call with our members in August to review the amendments. While they clearly appreciate the efforts that you and your colleagues have put forward to develop a model bill to bring about the needed reforms in the current examination process, NAMIC members continue to express concerns. Several of these concerns have been mentioned by the Property/Casualty Insurance Association of America (PCI). Specifically, NAMIC has identified five amendments we would like to see changed in the model. They include:

- Placing a reasonable limitation on the data collection authorized by the NCOIL model;
- Establishing a reasonable limit on market conduct examination fees;

- Clarifying that the NCOIL model authorizes only targeted exams for cause, not general purpose exams;
- Including stronger self-evaluative privilege language; and
- Assuring that due process rights for insurers is being examined.

It is our goal to work with you and your colleagues to re-open the debate on the NCOIL model at your fall meeting and have NCOIL consider these amendments. Absent that occurring, it would be our intention to offer these amendments if the NCOIL model is introduced in any state legislatures next year.

At the same time, we have contacted Oregon Insurance Administrator Joel Ario to express our concern that the NCOIL model appears to be in conflict with the language in the NAIC Model Law on Examinations. The net effect of this conflict is to continue to provide regulators with unfettered discretion to conduct market conduct examinations of insurers anytime and at any cost. We do not believe this was intended by NCOIL in drafting its model law, nor do we believe it is the direction the NAIC has chosen to pursue in its own discussions of developing a new market conduct regulation paradigm. We have asked the NAIC to consider making amendments to its model law so it does not conflict with the proposed NCOIL model.

NAMIC continues to believe a new market conduct regulation paradigm is an important component in preserving state-based insurance regulation and we fully intend to continue to work towards that end with both NCOIL and the NAIC.

Thank you for the opportunity to offer these comments today.

Sincerely,

A handwritten signature in black ink that reads "David Reddick". The signature is written in a cursive style and is positioned to the left of a vertical line.

David Reddick
State Affairs Manager

cc: Joel Ario, Oregon Insurance Administrator
Tim Tucker, NCOIL staff
Tim Mullen, NAIC staff

